



State Medical Board of Ohio

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March 11, 1998

Paul E. Pancoast, M.D.
3718 Edgevale Road
Toledo, OH 43606

Dear Doctor Pancoast:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on March 11, 1998, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal may be taken to the Franklin County Court of Common Pleas only.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO


Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. Z 233 895 285
RETURN RECEIPT REQUESTED

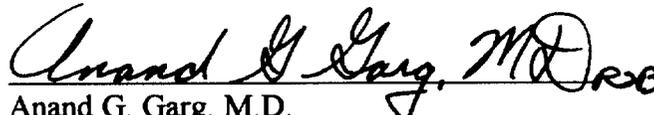
cc: Kevin P. Byers, Esq.
CERTIFIED MAIL RECEIPT NO. Z 233 895 286
RETURN RECEIPT REQUESTED

Mailed 4/13/98

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on March 11, 1998, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Paul E. Pancoast, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.


Anand G. Garg, M.D.
Secretary

(SEAL)

4/9/98
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

PAUL E. PANCOAST, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on March 11, 1998.

Upon the Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the modification, approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

1. The certificate of Paul E. Pancoast, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Dr. Pancoast's certificate is SUSPENDED for an indefinite period of time, but not less than two years. The suspension shall be retroactive to October 8, 1997.
2. The Board shall not consider reinstatement of Dr. Pancoast's certificate to practice unless all of the following minimum requirements have been met:
 - a. Dr. Pancoast shall submit an application for reinstatement, accompanied by appropriate fees. Dr. Pancoast shall not make such application for at least eighteen (18) months from the effective date of this Order.
 - b. Within sixty days of the effective date of this Order, or as otherwise approved by the Board, Dr. Pancoast shall commence appropriate treatment, as determined by an informed assessment of his current needs. Such assessment and treatment shall be by a provider or providers approved in advance by the

Board. Prior to the initial assessment, Dr. Pancoast shall furnish the approved provider copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, Conclusions, Order, and any other documentation from the hearing record which the Board may deem appropriate or helpful to that provider. Within ten (10) days after the completion of the initial assessment, Dr. Pancoast shall cause a written report to be submitted to the Board from the approved provider, which report shall include:

- i. A detailed plan of recommended treatment based upon the provider's informed assessment of Dr. Pancoast's current needs; and
 - ii. Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.
- c. Within thirty (30) days of the effective date of this Order, Dr. Pancoast shall submit to the Board for its prior approval the name of a supervising physician to whom Dr. Pancoast shall submit urine specimens as required in paragraphs 2(d)(v) and 3(g), below. The supervising physician shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the Board of any positive screening results.
- d. For the duration of the suspension period:
- i. Dr. Pancoast shall appear in person for interviews before the full Board or its designated representative within three months of the effective date of this Order and at three month intervals thereafter, 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. Although the Board will normally give him written notification of scheduled appearances, it is Dr. Pancoast's responsibility to know when personal appearances will occur. If he does not receive written notification from the Board by the end of the month in which the appearance should have occurred, Dr. Pancoast shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

- ii. Dr. Pancoast shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the terms of this Order. 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 Order becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the he Board's offices on or before the first day of every third month.
- iii. Dr. Pancoast shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Dr. Pancoast's history of chemical dependency.
- iv. Dr. Pancoast shall abstain completely from the use of alcohol.
- v. Dr. Pancoast shall provide satisfactory quarterly documentation of continuous participation in a drug and alcohol rehabilitation program, such as AA, NA, or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.
- vi. Dr. Pancoast shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended psychiatric treatment, if any, pursuant to paragraph 2(b), above, on a quarterly basis, or as otherwise directed by the Board.
- vii. Dr. Pancoast shall submit to random urine screenings for drugs and/or alcohol on a random basis at least two times per week, or as otherwise directed by the Board. Dr. Pancoast shall submit the urine specimens to the supervising physician approved by the Board pursuant to paragraph 2(c), above. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Dr. Pancoast shall ensure that the supervising physician provides quarterly reports to the Board, on forms approved or provided by the Board, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his responsibilities.

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

The first quarterly report must be received in the Board's offices on the first day of the third month following the month in which this Order becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly report must be received in the Board's offices on the first day of the fourth month following.

Subsequent quarterly reports must be received in the Board's offices on or before the first day of every third month.

- viii. Dr. Pancoast shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment providers, counselors, or supervising physicians 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.
- ix. Dr. Pancoast shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
- e. At the time he submits his application for reinstatement, Dr. Pancoast shall provide the Board with written reports of evaluation by a psychiatrist acceptable to the Board indicating that Dr. Pancoast's ability to practice has been assessed and that he has been found capable of practicing in accordance with acceptable and prevailing standards of care. The report shall describe with particularity the bases for this determination, shall address the current status of Dr. Pancoast's depression, and shall set forth any recommended treatment for Dr. Pancoast and/or recommended limitations on his practice.
- f. At the time he submits his application for reinstatement, Dr. Pancoast shall submit to the Board and receive its approval for a plan of practice in Ohio which, until otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Pancoast's activities will be directly supervised and overseen by a monitoring physician approved in advance by the Board. The monitoring physician shall monitor Dr. Pancoast and his patient charts, as set forth in paragraph 3(l), below. The monitoring

physician shall provide the Board with reports on Dr. Pancoast's progress and status and on the status of his patient charts as directed by the Board.

- g. In the event that Dr. Pancoast has not been engaged in 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 his fitness to resume practice.
3. Upon reinstatement, Dr. Pancoast's certificate shall be subject to the following **PROBATIONARY** terms, conditions, and limitations for a period of eight years:
 - a. Dr. Pancoast shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations.
 - b. Dr. Pancoast shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
 - c. Dr. Pancoast shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of probation. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which the probation becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
 - d. Dr. Pancoast shall appear in person for interviews before the full Board or its designated representative within three months of the reinstatement of his certificate and at three month intervals thereafter, 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. Although the Board will normally give him written notification of scheduled appearances, it is Dr. Pancoast's responsibility to know when personal appearances will occur. If he does not receive written notification from the Board by the end of the month in which the appearance should have occurred, Dr. Pancoast shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

- e. Dr. Pancoast shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Dr. Pancoast's history of chemical dependency.
- f. Dr. Pancoast shall abstain completely from the use of alcohol.
- g. Dr. Pancoast shall submit to random urine screenings for drugs and/or alcohol on a twice weekly basis or as otherwise directed by the Board. Dr. Pancoast 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.

The supervising physician approved by the Board prior to reinstatement, pursuant to paragraph 2(c), above, shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the Board of any positive screening results.

Dr. Pancoast shall ensure that the supervising physician provides quarterly reports to the Board, on forms approved or provided by the Board, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his responsibilities.

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

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. Pancoast's quarterly declaration. It is Dr. Pancoast's responsibility to ensure that reports are timely submitted.

- h. Dr. Pancoast shall submit blood and/or urine specimens for analysis without prior notice at such times as the Board may request, at Dr. Pancoast's expense.

- i. Dr. Pancoast shall maintain participation in an alcohol and drug rehabilitation program, such as AA, NA, or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval. In addition, at his appearances before the Board or its designated representative, Dr. Pancoast shall submit acceptable documentary evidence of continuing compliance with this program.
- j. Dr. Pancoast shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended psychiatric treatment, if any, pursuant to paragraph 2(e), above, on a quarterly basis, or as otherwise directed by the Board.

Dr. Pancoast shall maintain compliance with the plan of recommended psychiatric treatment, if any, until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require quarterly reports from the approved treatment provider. Dr. Pancoast shall ensure that reports are forwarded by the treatment provider to the Board on a quarterly basis, or as otherwise directed by the Board. It is Dr. Pancoast's responsibility to ensure that the quarterly reports are received in the Board's offices no later than the due date for Dr. Pancoast's quarterly declaration.

- k. Dr. Pancoast shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment providers, monitoring physicians, and supervising physicians 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.
- l. Dr. Pancoast shall comply with the practice plan approved by the Board prior to reinstatement of his certificate, as set forth in paragraph 2(f), above. The monitoring physician shall monitor Dr. Pancoast and provide the Board with reports on Dr. Pancoast's progress and status on a quarterly basis. All monitoring physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Pancoast's quarterly declaration. It is Dr. Pancoast's responsibility to ensure that the reports are timely submitted.

In the event that the approved monitoring physician becomes unable or unwilling to serve, Dr. Pancoast shall immediately notify the Board in writing and shall make arrangements for another monitoring physician as soon as practicable. Dr. Pancoast shall refrain from practicing until such supervision is in place, unless otherwise determined by the Board. Dr. Pancoast 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 therefor.

- m. Dr. Pancoast shall obtain the Board's prior approval for any alteration to the practice plan which was approved by the Board prior to the reinstatement of his certificate.
 - n. Dr. Pancoast shall not prescribe, administer, dispense, order, write orders for, give verbal orders for, or possess (except as prescribed for his use by another so authorized by law) any controlled substances, without prior Board approval.
 - o. Within thirty (30) days of the reinstatement of his certificate, Dr. Pancoast shall provide a copy of this Order to all employers or entities with which he is under contract to provide physician services, and the Chief of Staff at each hospital where Dr. Pancoast has privileges or appointments. Further, Dr. Pancoast shall provide a copy of this Order to all employers or entities with which he contracts to provide physician services, or applies for or receives training, and the Chief of Staff at each hospital where Dr. Pancoast applies for or obtains privileges or appointments.
 - p. In the event that Dr. Pancoast should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Pancoast must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.
 - q. If Dr. Pancoast violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may set aside the stay order and impose the permanent revocation of his certificate.
4. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Pancoast's certificate will be fully restored.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board of Ohio.

In the Matter of Paul E. Pancoast, M.D.
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(SEAL)

Anand G. Garg, M.D.
Anand G. Garg, M.D.
Secretary

4/9/98
Date

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REPORT AND RECOMMENDATION IN THE MATTER OF PAUL E. PANCOAST, M.D.

The Matter of Paul E. Pancoast, M.D., came on for hearing before Sharon W. Murphy, Attorney Hearing Examiner for the State Medical Board of Ohio, on January 8 and 23, 1998.

INTRODUCTION

I. Basis for Hearing

- A. In the Notice of Immediate Suspension and Opportunity for Hearing, dated October 8, 1997, the State Medical Board of Ohio [Board] notified Paul E. Pancoast, M.D., that, pursuant to Section 3719.121(C), Ohio Revised Code, the Board had immediately suspended his certificate to practice medicine and surgery in the State of Ohio. This action was based on the Lucas County Common Pleas Court's decision finding Dr. Pancoast eligible for treatment in lieu of conviction for his August 20, 1997, no contest plea to three felony counts of drug abuse in violation of Section 2925.11(A), (C)(1), and (E)(1), Ohio Revised Code. In addition, the Board cited Dr. Pancoast's acts which led to his plea and his history of prior Board action based on substance abuse. Furthermore, the Board notified Dr. Pancoast that continued practice would be considered practicing medicine without a certificate in violation of Section 4731.41, Ohio Revised Code.

The Board alleged that Dr. Pancoast's acts underlying the judicial finding of eligibility for treatment in lieu of conviction constitute "(c)ommission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed,' as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, [and] '(i)mpairment 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,' as that clause is used in Section 4731.22(B)(26), Ohio Revised Code."

In addition, the Board notified Dr. Pancoast of his right to request a hearing in this matter. (State's Exhibit 1).

- B. On November 7, 1997, Kevin P. Byers, Esq., filed a written hearing request on behalf of Dr. Pancoast.

II. Appearances

- A. On behalf of the State: Betty D. Montgomery, Attorney General, by James M. McGovern, Assistant Attorney General.
- B. On behalf of the Respondent: Kevin P. Byers, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

- A. Presented by the State
 - 1. Mark S. Keeley
 - 2. Paul E. Pancoast, M.D., as if on cross-examination
- B. Presented by the Respondent
 - 1. Bernard J. Schlacter
 - 2. Robert L. Lemle
 - 3. William K. Roman
 - 4. John Newton
 - 5. Roland G. Lowden, M.D.

II. Exhibits Examined

In addition to State's Exhibits 1 and 2, noted above, the following exhibits were identified and admitted into evidence:

- A. Presented by the State
 - 1. State's Exhibits 3-4: Procedural exhibits.
 - 2. State's Exhibit 5: Copy of a June 26, 1996, Daily Audit and Disposition Record of Controlled Substances from The Toledo Hospital. (2 pp.)

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3. State's Exhibit 6: Copies of General Narcotic Log Sheets from The Toledo Hospital. (4 pp.)
 4. State's Exhibits 7 and 8: Copies of Laboratory Requests/Reports from The Toledo Hospital. (8 pp.)
 5. State's Exhibit 9: Copy of a July 10, 1996, letter from Christopher R. Cook, Lead Pharmacist, The Toledo Hospital, to James Crawford, Drug Enforcement Administration, with attached "Report of Theft or Loss of Controlled Substances." (3 pp.)
 6. State's Exhibit 10: Copy of a November 19, 1996, letter to the Board from Larry W. Johnson, M.D., Chief of Staff, Medical College Hospitals, Toledo, Ohio, regarding Dr. Pancoast. (2 pp.)
 7. State's Exhibit 11: Copy of a Prosecutor's Reporting Form regarding Dr. Pancoast, filed with the Board on October 3, 1997.
 8. State's Exhibit 12: Copy of the Information filed June 27, 1997, in the Common Pleas Court of Lucas County, Ohio, in *State of Ohio v. Paul Pancoast*, Case No. CR97-2260. (23 pp.)
 9. State's Exhibit 13: Medical records for Dr. Pancoast maintained by Roland G. Lowden, M.D. (21 pp.) (Note: Exhibit sealed to protect patient confidentiality).
 10. State's Exhibit 14: Sections 2925.04, 2925.11, 2925.12, and 2925.13, Ohio Revised Code. (4 pp.)
 11. State's Exhibits 15a and 15b: Medical records for Dr. Pancoast from The Toledo Hospital. (93 pp.) (Note: Exhibit sealed to protect patient confidentiality).

B. Presented by the Respondent

1. Respondent's Exhibit A: Curriculum vitae of Paul E. Pancoast, M.D. (2 pp.)
2. Respondent's Exhibit B: Copy of a September 4, 1997, letter from Lee W. Hammerling, M.D., Chief Medical Officer, ProMedica Health System, regarding Dr. Pancoast.

3. Respondent's Exhibit C: Copy of a December 23, 1997, letter from Christopher Lynn, M.D., Associate Professor of Clinical Medicine, Medical College of Ohio, regarding Dr. Pancoast.
4. Respondent's Exhibit D: Copy of a December 30, 1997, letter from John F. Johnson, Probation Officer, Lucas County Court of Common Pleas, regarding Dr. Pancoast.
5. Respondent's Exhibit E: Copy of a July 10, 1997, letter from Luther Jones, CCDC III, Lead Counselor, The Toledo Hospital, regarding Dr. Pancoast.
6. Respondent's Exhibit F: Copy of a Discharge Summary regarding Dr. Pancoast from The Toledo Hospital Alcohol and Drug Treatment Center. (3 pp.) (Note: Exhibit sealed to protect patient confidentiality).
7. Respondent's Exhibit G: Copy of Dr. Pancoast's AA/NA/CA attendance logs. (24 pp.)
8. Respondent's Exhibit H: Copy of a January 8, 1998, letter from Mr. Charles H. Sallah, regarding Paul E. Pancoast, M.D. (2 pp.)
9. Respondent's Exhibit I: Copy of a December 30, 1997, letter from George M. Haig, Pharm.D., Research Department, The Toledo Hospital, regarding Paul E. Pancoast, M.D.
10. Respondent's Exhibit J: Copy of a January 8, 1998, letter from Justice G. Johnson, Jr., regarding Paul Pancoast.
11. Respondent's Exhibit K: Not submitted by Respondent.
12. Respondent's Exhibit L: Dr. Lowden's report regarding his treatment of Dr. Pancoast.

SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony, even if not specifically mentioned, were thoroughly reviewed and considered by the Attorney Hearing Examiner prior to preparing this Report and Recommendation.

1. Paul E. Pancoast, M.D., received his medical degree from Loma Linda University, Loma Linda, California, in 1981. In 1984, he completed a residency

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in emergency medicine at Wright State University in Dayton, Ohio. From 1984 through 1988, Dr. Pancoast practiced emergency medicine in Chillicothe, Ohio. For the following two years, Dr. Pancoast operated a family practice and served locum tenens. Thereafter, Dr. Pancoast moved to California, where he served as an emergency physician for four years. Subsequently, Dr. Pancoast relocated to Toledo, Ohio, and practiced emergency medicine on a part time basis. In 1994, Dr. Pancoast began a residency in anesthesiology at the Medical College of Ohio in Toledo, Ohio. He relinquished that position in July 1996. In November 1997, Dr. Pancoast entered a Master's degree program in business administration at the University of Toledo. (Transcript [Tr.] at 98-101; Respondent's Exhibit [Resp. Ex.] A).

Dr. Pancoast is certified by the American Board of Emergency Medicine and the American Board of Quality Assurance and Utilization Review. (Resp. Ex. A).

2. In 1979, while in medical school, Dr. Pancoast started abusing alcohol. He continued drinking heavily for the next ten to eleven years. In the early 1980s, Dr. Pancoast also used cocaine and marijuana. Over the next several years, Dr. Pancoast used other oral medications, including codeine, Vicodin, Lorcet, Percocet, and Percodan. (Tr. at 143-145; State's Exhibit [St. Ex.] 12 at 15-16; St. Ex. 13 at 16-17).

3. Dr. Pancoast entered a treatment program in 1989 after being evaluated by the Board. On September 18, 1990, Dr. Pancoast entered into a Consent Agreement with the Board in lieu of formal proceedings pursuant to Dr. Pancoast's violation of Section 4731.22(B)(26), Ohio Revised Code. In the Consent Agreement, Dr. Pancoast admitted that he had a history of substance abuse and dependency since the mid-1970's. His drugs of abuse included "marijuana, alcohol, cocaine [both by insufflation and intravenous injection], Percodan and intravenous Demerol." Dr. Pancoast further agreed to abide by probationary terms and conditions. These terms included abstention from the personal use of drugs or alcohol; submission of random urine screenings for drugs; participation in an alcohol and drug rehabilitation program; and submission of a log of all controlled substances prescribed, administered or dispensed by Dr. Pancoast. (Tr. at 103-104; St. Ex. 1 at 9-10; St. Ex. 12 at 16).

Dr. Pancoast testified that he had fully complied with the terms of the Consent Agreement. Nevertheless, he had left the treatment program in 1989 "mad and bitter." Dr. Pancoast noted that, after completing the treatment program, he had abstained from the use of drugs and alcohol. Nevertheless, he had not been "truly sober." Rather than embracing sobriety, he had merely done what he needed to do in order to continue the practice of medicine. (Tr. at 103-104; St. Ex. 12 at 16).

4. In December 1993, the Medical Board of California issued a Stipulation in Agreement, Decision and Order against Dr. Pancoast based, in part, on the action taken against Dr. Pancoast by the Ohio Board. (St. Ex. 1 at 12-25).
5. In April 1994, Dr. Pancoast entered into an amended Consent Agreement with the Board after commencing the anesthesiology residency program at the Medical College of Ohio. The amended Consent Agreement allowed Dr. Pancoast to prescribe, order and/or administer controlled substances to patients in the course of his duties as an anesthesiology resident. (St. Ex. 1 at 5-8).

In Spring 1996, Dr. Pancoast was released from the terms of his Consent Agreement with the Board. (Tr. at 147, 154).

6. Mark S. Keeley, pharmacist and specialist, employed by the Ohio State Board of Pharmacy, testified at hearing on behalf of the State. (Tr. at 14). Mr. Keeley testified as follows:
 - On July 8, 1996, Mr. Keeley was contacted by Chris Cook, a pharmacist at The Toledo Hospital. Mr. Cook reported that Dr. Pancoast had been administering Sufenta [Sufentanil, a Schedule II narcotic] in amounts extraordinarily large for an anesthesiology resident. (Tr. at 15-16).
 - Mr. Keeley met with Mr. Cook. Mr. Cook advised that an anesthesiology resident would not normally use the amount of Sufenta used by Dr. Pancoast. Because of that concern, The Toledo Hospital pharmacy department instituted an investigation. Mr. Cook provided the pharmacy records upon which Dr. Pancoast recorded the Sufenta used during his surgical procedures. (Tr. at 17-29; St. Exs. 5 and 6).
 - The procedure at The Toledo Hospital requires practitioners to return the unused portion, or "waste," of any controlled substance to the pharmacy. In the investigation of Dr. Pancoast, the pharmacy department decided to analyze 19 Sufenta waste syringes returned by Dr. Pancoast on June 24, June 26, July 1, and July 3, 1996. The analysis revealed that the syringes contained only normal saline or Ringer's lactate solution. There was no Sufenta in the syringes. (Tr. at 29-39; St. Exs. 7 and 8).
 - The Toledo Hospital reported Dr. Pancoast's diversion of Sufenta to the Lucas County Prosecutor's Office and the Drug Enforcement Administration. (Tr. at 43-44; St. Ex. 9).

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7. Dr. Pancoast testified regarding the diversion of Sufenta, as follows:
- Dr. Pancoast diverted Sufenta for his own use over a six week period in June and July 1996. He used Sufenta several times a day, every day, during this period of time. Dr. Pancoast was unable to assess the total amount of Sufenta he had diverted. (Tr. at 53-54).
 - Dr. Pancoast used the waste Sufenta by inhalation. He refilled the syringes with other solutions before returning them to the pharmacy, and falsely recorded that the syringes contained Sufenta. (Tr. at 47-49).
 - While under the influence of Sufenta, Dr. Pancoast treated patients in the course of his practice as an anesthesiology resident. (Tr. at 49).
 - Dr. Pancoast only used excess medication for his own benefit. Therefore, no patient was deprived the appropriate dose of medication. (Tr. at 53-55; 108-109).
8. On July 5, 1996, Dr. Pancoast was confronted by administrators at The Toledo Hospital. When confronted, Dr. Pancoast admitted that he had been diverting Sufenta. That same day, Dr. Pancoast was admitted to The Toledo Hospital Alcohol and Drug Treatment Program. He also took a leave of absence from the anesthesiology residency. (Tr. at 49-51; St. Ex. 10).

Dr. Pancoast remained at The Toledo Hospital Alcohol and Drug Treatment Program for four days for detoxification. He experienced no symptoms of withdrawal. Thereafter, he completed an outpatient program through The Toledo Hospital on July 29, 1996. For the following six to nine months, Dr. Pancoast participated in an aftercare program. (Tr. at 51-52; St. Ex. 12 at 10; St. Ex. 15A at 47).

9. On June 27, 1997, the Lucas County Prosecutor filed an Information in the Lucas County Court Of Common Pleas in *State of Ohio vs. Paul Pancoast*, Case No. CR97-2260. The Information charged Dr. Pancoast with three felony counts of drug abuse in violation of Section 2925.11(A), (C)(1), and (E)(1), Ohio Revised Code. (St. Ex. 12 at 1-2).

On July 14, 1997, Dr. Pancoast filed a Motion for Treatment in Lieu of Conviction, admitting that his "drug dependence or danger of drug dependence was a factor leading to the criminal activity." (St. Ex. 12 at 8-9). In the motion, Dr. Pancoast included a letter from Luther Jones, CCDC III, Lead Counselor with The Toledo Hospital Alcohol and Drug Treatment Center, who reported that Dr. Pancoast had completed a continuing care program in March 1997.

Mr. Lucas further reported that Dr. Pancoast's prognosis was excellent. Finally, Mr. Lucas advised the Court that Dr. Pancoast had been volunteering for the Alcohol and Drug Treatment Center. (St. Ex. 12 at 10) (See also Resp. Ex. E).

On August 15, 1997, Mark S. Pittner, Ph.D., of the Lucas County Court Diagnostic and Treatment Center, advised the Court that Dr. Pancoast had been evaluated by that agency. Dr. Pittner concluded that Dr. Pancoast would be a good candidate for treatment in lieu of conviction. (St. Ex. 12 at 12-20).

On August 20, 1997, Dr. Pancoast pleaded no contest to three felony counts of drug abuse, in violation of Sections 2925.11(A), (C)(1), and (E)(1), Ohio Revised Code. The Court found that Dr. Pancoast's drug dependence "was a factor leading to the criminal activity which [he was] charged, and rehabilitation through treatment would substantially reduce the likelihood of additional criminal activity." Accordingly, the Court found Dr. Pancoast eligible for treatment in lieu of conviction pursuant to Section 2951.041, Ohio Revised Code, and reserved its determination of guilt. The Court placed Dr. Pancoast on probation for a period of three years. Terms of probation included fines and costs, random urinalysis, participation in a drug or alcohol treatment program, abstinence from drugs, and compliance with the recommendations of his treating psychiatrist. (St. Ex. 12 at 21-22).

10. On October 3, 1997, the Office of the Prosecuting Attorney of Lucas County, Ohio, in accordance with Sections 2929.24 and 3719.12(B), Ohio Revised Code, advised the Board that Dr. Pancoast had been found eligible for treatment in lieu of conviction. (St. Ex. 11). Accordingly, on October 8, 1997, the Board issued a Notice of Immediate Suspension and Opportunity for Hearing, notifying Dr. Pancoast that the Board had immediately suspended his certificate to practice medicine and surgery in the State of Ohio, pursuant to Section 3719.121(C), Ohio Revised Code. (St. Ex. 1).
11. At hearing, Dr. Pancoast testified regarding his substance abuse history. He stated that he had entered the treatment program in 1989 at the behest of the Board, but did so with a negative attitude. Dr. Pancoast stated that:

I went in angry with the knowledge that, although I had problems from drinking and taking drugs, my problems were simply that, and they were something I could deal with. And so I spent seven years controlling myself, maintaining as close to absolute control with the sole purpose that I was going to continue to practice medicine and do what I wanted.

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That didn't work. I wasn't able to contain myself. I wasn't able to maintain the strict control that I had intended.

By July of 1996, I knew that if I was going to have any chance of saving my soul, if you will, of becoming a person, it was going to have to be as a sober person, and that meant I was going to have to make some major changes. Rather than trying to game the system or make things happen the way I wanted them to, I was going to have to accept the way things were.

(Tr. at 103-104). Dr. Pancoast further explained that:

From 1989 until 1996, my primary purpose was to continue to practice medicine and do what I wanted to do. It was not to be sober. I had to remain abstinent and have clean urines for a long time, but being drug free is completely different from being sober. You can't be sober if you're not drug free, but you can be drug free and not be sober."

(Tr. at 110).

Dr. Pancoast further testified that he has been seeing a psychiatrist since September 1996. The psychiatrist has prescribed Zoloft, Desyrel, and BuSpar for Dr. Pancoast's anxiety and depression. Dr. Pancoast stated that, since taking anti-depressant medications, he has felt better than he ever had before. Moreover, in the last year and a half, he has realized that the most important thing in his life is his sobriety. The change in his attitude has improved his relationship with his wife and four children. He also testified that he has developed friendships for the first time in his adult life. (Tr. at 105, 124-125, 150-151, 154).

Dr. Pancoast has resigned from the anesthesiology residency at the Medical College of Ohio. (St. Ex. 10). He testified that he has accepted that he can not resume the practice of anesthesiology. (Tr. at 128). He further testified that he can not practice medicine in a manner which requires that he personally handle narcotic medications. Moreover, Dr. Pancoast testified that he has realized that, if he is able to return to the practice of medicine, he must seek a less stressful form of practice. (Tr. at 133-136).

Dr. Pancoast testified that he has fully complied with his recovery program. (Tr. at 114, 121-123) (See also Resp. Exs. D, E, G, H, and J).

12. Roland G. Lowden, M.D., testified at hearing on behalf of Dr. Pancoast. Dr. Lowden is Dr. Pancoast's treating psychiatrist. Dr. Lowden has been practicing psychiatry since 1993. Prior to the practice of psychiatry, he practiced pathology from 1971 through 1989. Dr. Lowden completed a psychiatric residency and fellowship in 1993, and has since passed the written examination for board certification in psychiatry. However, he has not been able to pass the oral examination. (Tr. at 159-161, 191-192).

Dr. Lowden first saw Dr. Pancoast in September 1996. Since that time, Dr. Lowden has seen Dr. Pancoast on 23 occasions. Currently, Dr. Lowden sees Dr. Pancoast on a monthly basis. (Tr. at 162). Regarding Dr. Pancoast, Dr. Lowden testified as follows:

- Dr. Lowden diagnosed Dr. Pancoast as suffering from clinical depression. His Axis I diagnoses were polysubstance abuse and dysthymia; his Axis II diagnosis was narcissistic personality style. (Tr. at 163).
 - Dr. Pancoast has learned that he reacts to situational depression with substance abuse. Through therapy, Dr. Pancoast is learning to recognize his depression in order to avoid turning to illegal substances. (Tr. at 168).
 - Dr. Pancoast has acknowledged to Dr. Lowden that he cannot return to the practice of anesthesiology. Dr. Lowden agreed that such aspiration would be unrealistic. (Tr. at 170-171).
 - In order to maintain sobriety, Dr. Pancoast requires a formal program, which includes AA [Alcoholics Anonymous] and some type of long-term psychiatric or psychological therapy, to maintain his sobriety. (Tr. at 173, 182-184) (See also Resp. Ex. L).
13. On December 30, 1997, John F. Johnson, Probation Officer with the Lucas County Court of Common Pleas Adult Probation Department, advised that Dr. Pancoast has maintained compliance with the terms of his probation since its initiation in August 1997. (Resp. Ex. D).
14. Bernard J. Schlacter testified at hearing on behalf of Dr. Pancoast. Mr. Schlacter has been a member of AA for twenty-five years. During that time, Mr. Schlacter has served as an AA sponsor for thirty to forty newer AA members. For the past year and a half, he has been serving as an AA sponsor for Dr. Pancoast. Mr. Schlacter testified that Dr. Pancoast attends meetings "almost daily" and participates purposefully in the AA program. (Tr. at 67-77).

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Robert L. Lemle, another member of AA, stated that Dr. Pancoast is "very serious about being a member of the group" and devotes significant time and effort to his recovery. (Tr. at 81).

At hearing, Dr. Pancoast submitted AA attendance logs for July 1996 through January 1998, demonstrating his frequent attendance at AA meetings. (Tr. at 112-113; Resp. Ex. G).

15. Lee Hammerling, M.D., Chief Medical Officer for ProMedica Health System advised that Dr. Pancoast has been offered a position with the Research Department at ProMedica Health System. Dr. Hammerling reported that the position requires a physician to perform physician examinations and obtain medical histories from patients who are participating in clinical trials. Dr. Hammerling further advised that, in the position, Dr. Pancoast would not be responsible for treating, diagnosing or prescribing. Moreover, Dr. Pancoast would not have access to any drugs or drug-related supplies. (Resp. Ex. B) (See also Tr. at 117-119, 132-133; Resp. Exs. C, D).

Dr. Pancoast submitted additional testimony and letters in his support. (See Tr. at 83-97; Resp. Exs. H-J).

FINDINGS OF FACT

1. On or about September 18, 1990, Paul E. Pancoast, M.D., entered into a minimum five (5) year Consent Agreement with the State Medical Board of Ohio in lieu of formal proceedings based upon his violation of Section 4731.22(B)(26), Ohio Revised Code.
2. The 1990 Consent Agreement was amended in April 1994 to allow Dr. Pancoast to prescribe or administer controlled substances to patients in the course of his anesthesiology residency.
3. In Spring 1996, Dr. Pancoast was released from the terms of his Consent Agreement with the Board.
4. In June and July, 1996, Dr. Pancoast began abusing Sufenta, a Schedule II narcotic, that he obtained at The Toledo Hospital while practicing as an anesthesiology resident.
5. On August 20, 1997, in the Lucas County Court of Common Pleas, Dr. Pancoast pleaded no contest to three (3) felony counts of drug abuse in violation of Section

2925.11(A), (C)(1), and (E)(1), Ohio Revised Code. Dr. Pancoast was granted treatment in lieu of conviction pursuant to Section 2951.041, Ohio Revised Code.

CONCLUSIONS OF LAW

1. The conduct of Paul E. Pancoast, M.D., which led to the judicial finding of eligibility for treatment in lieu of conviction for violations of Sections 2925.11(A), (C)(1), and (E)(1), Ohio Revised Code, constitutes the “(c)ommission of an act that constitutes a felony in this state,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code.
2. The conduct of Paul E. Pancoast, M.D., which led to the judicial finding of eligibility for treatment in lieu of conviction for violations of Section 2925.11(A), (C)(1), and (E)(1), and his history of substance abuse and dependence, constitute “(i)mpairment 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,” as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.
3. Dr. Pancoast’s abuse of Sufenta in 1996 constitutes a relapse under the definition of Rule 4731-16-01, Ohio Administrative Code.

PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of Paul E. Pancoast, M.D., to practice medicine and surgery in the State of Ohio shall be **PERMANENTLY REVOKED**. Such revocation is **STAYED**, and Dr. Pancoast’s certificate is **SUSPENDED** for an indefinite period of time, but not less than two years. The suspension shall be retroactive to October 7, 1997, the date that the Board imposed an immediate suspension of Dr. Pancoast’s certificate.
2. The Board shall not consider reinstatement of Dr. Pancoast’s certificate to practice unless all of the following minimum requirements have been met:
 - a. Dr. Pancoast shall submit an application for reinstatement, accompanied by appropriate fees. Dr. Pancoast shall not make such application for at least eighteen (18) months from the effective date of this Order.

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- b. Within sixty days of the effective date of this Order, or as otherwise approved by the Board, Dr. Pancoast shall commence appropriate psychiatric treatment, as determined by an informed assessment of his current needs. Such assessment and treatment shall be by a provider or providers approved in advance by the Board. Prior to the initial assessment, Dr. Pancoast shall furnish the approved provider copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, Conclusions, Order, and any other documentation from the hearing record which the Board may deem appropriate or helpful to that provider. Within ten (10) days after the completion of the initial assessment, Dr. Pancoast shall cause a written report to be submitted to the Board from the approved provider, which report shall include:
 - i. A detailed plan of recommended treatment based upon the provider's informed assessment of Dr. Pancoast's current needs; and
 - ii. Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.
- c. Within thirty (30) days of the effective date of this Order, Dr. Pancoast shall submit to the Board for its prior approval the name of a supervising physician to whom Dr. Pancoast shall submit urine specimens as required in paragraphs 2(d)(v) and 3(g), below. The supervising physician shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the Board of any positive screening results.
- d. For the duration of the suspension period:
 - i. Dr. Pancoast shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Dr. Pancoast's history of chemical dependency.
 - ii. Dr. Pancoast shall abstain completely from the use of alcohol.
 - iii. Dr. Pancoast shall provide satisfactory quarterly documentation of continuous participation in a drug and alcohol rehabilitation program, such as AA, NA, or Caduceus, no less than three times per week.

Substitution of any other specific program must receive prior Board approval.

- iv. Dr. Pancoast shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended psychiatric treatment, if any, pursuant to paragraph 2(b), above, on a quarterly basis, or as otherwise directed by the Board.
- v. Dr. Pancoast shall submit to random urine screenings for drugs and/or alcohol on a random basis at least two times per week, or as otherwise directed by the Board. Dr. Pancoast shall submit the urine specimens to the supervising physician approved by the Board pursuant to paragraph 2(c), above. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Dr. Pancoast shall ensure that the supervising physician provides quarterly reports to the Board, on forms approved or provided by the Board, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his responsibilities.

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

The first quarterly report must be received in the Board's offices on the first day of the third month following the month in which this Order becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly report must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly reports must be received in the Board's offices on or before the first day of every third month.

- vi. Dr. Pancoast shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment providers, counselors, or supervising physicians to the Board, to treating and monitoring physicians, and to others involved in the

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monitoring process, of information necessary for them to fulfill their respective duties and obligations.

- vii. Dr. Pancoast shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
 - e. At the time he submits his application for reinstatement, Dr. Pancoast shall provide the Board with written reports of evaluation by a psychiatrist acceptable to the Board indicating that Dr. Pancoast's ability to practice has been assessed and that he has been found capable of practicing in accordance with acceptable and prevailing standards of care. The report shall describe with particularity the bases for this determination, shall address the current status of Dr. Pancoast's depression, and shall set forth any recommended treatment for Dr. Pancoast and/or recommended limitations on his practice.
 - f. At the time he submits his application for reinstatement, Dr. Pancoast shall submit to the Board and receive its approval for a plan of practice in Ohio which, until otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Pancoast's activities will be directly supervised and overseen by a monitoring physician approved in advance by the Board. The monitoring physician shall monitor Dr. Pancoast and his patient charts, as set forth in paragraph 3(l), below. The monitoring physician shall provide the Board with reports on Dr. Pancoast's progress and status and on the status of his patient charts as directed by the Board.
 - g. In the event that Dr. Pancoast has not been engaged in 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 his fitness to resume practice.
3. Upon reinstatement, Dr. Pancoast's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of eight years:
- a. Dr. Pancoast shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations.
 - b. Dr. Pancoast shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.

- c. **Dr. Pancoast shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of probation. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which the probation becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.**
- d. **Dr. Pancoast shall appear in person for interviews before the full Board or its designated representative within three months of the reinstatement of his certificate and at three month intervals thereafter, 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. Although the Board will normally give him written notification of scheduled appearances, it is Dr. Pancoast's responsibility to know when personal appearances will occur. If he does not receive written notification from the Board by the end of the month in which the appearance should have occurred, Dr. Pancoast shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

- e. **Dr. Pancoast shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Dr. Pancoast's history of chemical dependency.**
- f. **Dr. Pancoast shall abstain completely from the use of alcohol.**
- g. **Dr. Pancoast shall submit to random urine screenings for drugs and/or alcohol on a twice weekly basis or as otherwise directed by the Board. Dr. Pancoast 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.**

The supervising physician approved by the Board prior to reinstatement, pursuant to paragraph 2(c), above, shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the

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specimen is maintained. In addition, the supervising physician shall immediately inform the Board of any positive screening results.

Dr. Pancoast shall ensure that the supervising physician provides quarterly reports to the Board, on forms approved or provided by the Board, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his responsibilities.

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

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. Pancoast's quarterly declaration. It is Dr. Pancoast's responsibility to ensure that reports are timely submitted.

- h. Dr. Pancoast shall submit blood and/or urine specimens for analysis without prior notice at such times as the Board may request, at Dr. Pancoast's expense.
- i. Dr. Pancoast shall maintain participation in an alcohol and drug rehabilitation program, such as AA, NA, or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval. In addition, at his appearances before the Board or its designated representative, Dr. Pancoast shall submit acceptable documentary evidence of continuing compliance with this program.
- j. Dr. Pancoast shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended psychiatric treatment, if any, pursuant to paragraph 2(e), above, on a quarterly basis, or as otherwise directed by the Board.

Dr. Pancoast shall maintain compliance with the plan of recommended psychiatric treatment, if any, until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require quarterly reports from the approved treatment provider. Dr. Pancoast shall ensure that reports are forwarded by the treatment provider to the Board on a quarterly basis, or as otherwise directed by the

Board. It is Dr. Pancoast's responsibility to ensure that the quarterly reports are received in the Board's offices no later than the due date for Dr. Pancoast's quarterly declaration.

- k. Dr. Pancoast shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment providers, monitoring physicians, and supervising physicians 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.**
- l. Dr. Pancoast shall comply with the practice plan approved by the Board prior to reinstatement of his certificate, as set forth in paragraph 2(f), above. The monitoring physician shall monitor Dr. Pancoast and provide the Board with reports on Dr. Pancoast's progress and status on a quarterly basis. All monitoring physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Pancoast's quarterly declaration. It is Dr. Pancoast's responsibility to ensure that the reports are timely submitted.**

In the event that the approved monitoring physician becomes unable or unwilling to serve, Dr. Pancoast shall immediately notify the Board in writing and shall make arrangements for another monitoring physician as soon as practicable. Dr. Pancoast shall refrain from practicing until such supervision is in place, unless otherwise determined by the Board. Dr. Pancoast 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 therefor.

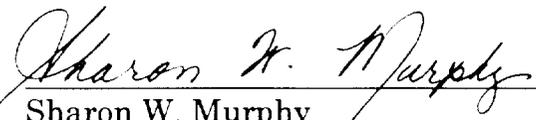
- m. Dr. Pancoast shall obtain the Board's prior approval for any alteration to the practice plan which was approved by the Board prior to the reinstatement of his certificate.**
- n. Dr. Pancoast shall not prescribe, administer, dispense, order, write orders for, give verbal orders for, or possess (except as prescribed for his use by another so authorized by law) any controlled substances, without prior Board approval.**
- o. Within thirty (30) days of the reinstatement of his certificate, Dr. Pancoast shall provide a copy of this Order to all employers or entities with which he is under contract to provide physician services, and the Chief of Staff at each hospital where Dr. Pancoast has privileges or appointments. Further, Dr. Pancoast shall provide a copy of this Order to all employers or entities**

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with which he contracts to provide physician services, or applies for or receives training, and the Chief of Staff at each hospital where Dr. Pancoast applies for or obtains privileges or appointments.

- p. In the event that Dr. Pancoast should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Pancoast must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.
 - q. If Dr. Pancoast violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may set aside the stay order and impose the permanent revocation of his certificate.
4. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Pancoast's certificate will be fully restored.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board of Ohio.


Sharon W. Murphy
Attorney Hearing Examiner



State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF MARCH 11, 1998

REPORTS AND RECOMMENDATIONS

Dr. Buchan announced that the Board would now consider the findings and orders appearing on the Board's agenda.

Dr. Buchan asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Abel P. Borromeo, M.D.; Cardiac Surgeons for Northwest, Ohio, Inc.; Cardiothoracic & Vascular Surgeons, Inc.; Marion Ob/Gyn, Inc.; Paul E. Pancoast, M.D.; John M. Speca, M.D.; Tina Thomas-McCauley, M.D.; Dorian M. Vidu, M.D.; and Report of the State's Presentation of Evidence in the Matter of Nader Afrooz, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Gretter	- aye
	Mr. Sinnott	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Buchan	- aye

Mr. Sinnott advised that he has an attorney/client relationship with one of the cardiothoracic physicians and recused himself from consideration in the matter of Cardiothoracic & Vascular Surgeons, Inc.

Dr. Stienecker indicated that Cardiothoracic & Vascular Surgeons, Inc., works at his hospital, and he will also recuse himself from consideration of the case.

Dr. Garg indicated that he would recuse himself in the matter of Nader Afrooz, M.D. He indicated that he has knowledge of the physician's practice.

Dr. Buchan asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye

- Dr. Gretter - aye
- Mr. Sinnott - aye
- Dr. Stienecker - aye
- Dr. Agresta - aye
- Dr. Garg - aye
- Dr. Steinbergh - aye
- Dr. Buchan - aye

In accordance with the provision in Section 4731.22(C)(1), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters.

Dr. Buchan stated that if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

.....

Dr. Buchan asked Dr. Egner whether she had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Cardiothoracic & Vascular Surgeons, Inc.; Marion Ob/Gyn, Inc.; Paul E. Pancoast, M.D.; John M. Speca, M.D.; Tina Thomas-McCauley, M.D.; Dorian M. Vidu, M.D.; and Report of the State's Presentation of Evidence in the Matter of Nader Afrooz, M.D.

Dr. Egner indicated that she had.

Dr. Buchan asked Dr. Egner whether she understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation.

Dr. Egner stated that she does understand.

.....

PAUL E. PANCOAST, D.O.

Dr. Buchan directed the Board's attention to the matter of Paul E. Pancoast, D.O. He advised that no objections were filed to Hearing Examiner Murphy's Report and Recommendation. Dr. Buchan stated that

if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and order in the above matter. No objections were voiced by Board members present.

Dr. Buchan continued that a request to address the Board has been timely filed on behalf of Dr. Pancoast. Five minutes would be allowed for that address.

Dr. Pancoast stated that he appreciates the Board's taking time to listen to him. He is here today because the Board will make a decision that will affect him and his family for the rest of his life. That decision is whether his relapse--using drugs following completion of a consent agreement with the Board--puts him into a category of being unable to ever practice medicine again. Dr. Pancoast stated that he doesn't believe he fits into that category. If so, the Board wouldn't look at the recommendations from the Hearing Examiner. The Board's decision will be based on what he has done and the changes he has made.

Dr. Pancoast stated that the difference between now and the time he entered into his agreement with the Board is that the last time he knew he'd made serious mistakes and he let things get out of control, but he thought that with knowledge and willpower he could control himself. He was successful for a while. He controlled himself well, but did it by himself, with no outside help. He wouldn't accept any. He was released from his consent agreement after six years and thought that he was okay. Things then got stressful. His disease told him that he was okay now and that it would be okay to relieve his stress with drugs. He used them; and as soon as he did, he didn't know how to quit. He was immediately caught and underwent treatment.

Dr. Pancoast stated that this time he realizes that he has to make drastic changes. He was told to reconnect with A.A., and he has. He attends one or two meetings per week. It was also suggested that he should see a psychiatrist because of the depression, stress and anxiety. He has seen one every three or four weeks for the last year and a half. The psychiatrist has made several recommendations:

1. No work for at least one year. Dr. Pancoast stated that this has been difficult financially, but he can make it.
2. Take a business course at the university.
3. No return to a high-stress practice, should Dr. Pancoast return to medical practice. The psychiatrist has indicated that he would not approve Dr. Pancoast's return to a high-stress situation.

Dr. Pancoast indicated that this has been difficult, but he has accepted it. If the Board decides things are different enough that he should be permitted to keep his license, he is sure that the psychiatrist would provide the Board with an appropriate practice plan.

Dr. Pancoast stated that he has been offered a job at Toledo Hospital, where he was working when he relapsed last fall. They know him there. The position he has been offered is in the research department,

performing histories and physicals on patients in their research studies. That offer is still open. He again stated that the people at the hospital know him and they have decided to give him a second chance.

Dr. Buchan asked whether the Assistant Attorney General wished to respond.

Mr. McGovern stated that Dr. Pancoast's statements are consistent with the statements he made at hearing. At the hearing he was very candid regarding his impairment history, as well as regarding the circumstances surrounding his recent relapse. Mr. McGovern agreed with Dr. Pancoast that the issue before the Board is whether or not he is worthy of being permitted to return to the practice of medicine. If the Board decides that he is, serious consideration needs to be given to the conditions under which he would be permitted to return to practice.

DR. GARG MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF PAUL E PANCOAST, D.O. DR. STEINBERGH SECONDED THE MOTION.

Dr. Garg asked Dr. Pancoast whether he is practicing now.

Dr. Pancoast indicated that he has not practiced since July 1996. He practiced emergency medicine for twelve years and was training in anesthesia. He didn't complete that training. If he returns to practice, he doesn't know if he would return to emergency medicine. He would begin at the "histories and physicals" level and see what his psychiatrist recommends from there.

DR. STEINBERGH MOVED THAT THE PROPOSED ORDER IN THE MATTER OF PAUL E. PANCOAST, D.O., BE AMENDED BY ADDING THE FOLLOWING AS SUBPARAGRAPHS 2.d.i. AND 2.d.ii.:

- d. For the duration of the suspension period:
 - i. Dr. Pancoast shall appear in person for interviews before the full Board or its designated representative within three months of the effective date of this Order and at three month intervals thereafter, 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. Although the Board will normally give him written notification of scheduled appearances, it is Dr. Pancoast's responsibility to know when personal appearances will occur. If he does not receive written notification from the Board by the end of the month in which the appearance should have occurred, Dr. Pancoast shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

- ii. Dr. Pancoast shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the terms of this Order. 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 Order becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

DR. STEINBERGH FURTHER MOVED TO RENUMBER THE OTHER PARAGRAPHS IN d., ACCORDINGLY, AND THAT THE MINIMUM TWO YEAR SUSPENSION BE RETROACTIVE TO JULY 5, 1996, WHEN DR. PANCOAST LAST PRACTICED. DR. GARG SECONDED THE MOTION.

Dr. Garg asked whether Dr. Steinbergh would accept a friendly amendment. He noted that if the Board made the minimum suspension period 21 months from the July 5, 1996 date, Dr. Pancoast could apply for reinstatement now, without having to take the SPEX, as he would have to do if he couldn't apply until July.

Dr. Steinbergh stated that the two-year minimum suspension is appropriate for someone who has relapsed after a previous agreement. She would be concerned about setting a precedent by making the suspension period less than two years.

Dr. Garg asked whether Dr. Steinbergh would consider allowing Dr. Pancoast to be reinstated now, but only permit him to do histories and physicals during the remaining three months. He noted that Dr. Pancoast did comply with the terms of his previous agreement, and he has been candid.

Dr. Steinbergh stated that she would not accept the friendly amendment. She believes his license should remain under suspension until July 5.

Dr. Bhati spoke against the amendment, stating that in the past the Board has required at least two years of sobriety. Dr. Pancoast relapsed in 1997. He would be opposed to making the suspension period retroactive to 1996.

Mr. Sinnott stated that he has a different perspective on this case. He sees Dr. Pancoast as someone who entered into a consent agreement with the Board, and after entering into that agreement engaged in the illegal use of drugs. It was just last year that Dr. Pancoast was found eligible for treatment in lieu of conviction, for what would have been a felony count. Mr. Sinnott stated that Dr. Pancoast presents a close call regarding permanent revocation.

Mr. Sinnott stated that Dr. Pancoast makes a compelling case for himself. He did that at the hearing as well as today. He is willing to give Dr. Pancoast another try. At the same time, he thinks the Board needs to take

a stern action today. A two-year suspension strikes him as being the minimum Board penalty. It is entirely appropriate that the Board begin that period of suspension from the time at which the Board took Dr. Pancoast out of practice, in October 1997. Mr. Sinnott added that he is not fond of the idea of giving a fully licensed physician, who has, by his own representation, voluntarily removed himself from practice, credit as opposed to a suspension for that time he has taken himself out of practice. Dr. Pancoast needs to be told that he is on the thinnest possible ice. He is very close to losing his license forever. The Board ought to impose the two-year suspension starting October 8, 1997 as a way of getting that message home.

Mr. Sinnott stated that he believes the other portions of the amendment are entirely appropriate. He believes that the Order proposed by the Hearing Examiner is a good one. He is troubled by Dr. Pancoast's coming back to practice in three months.

Dr. Egner noted that Dr. Pancoast stated that he had to get reconnected with A.A. She asked at what point he became disconnected.

Dr. Pancoast stated that when he moved to Toledo in 1994 he attended meetings only as required. He didn't participate and he formed no connections. He quit going to meetings when released from his agreement. He was clean for a number of years, and didn't feel that he needed A.A.

DR. STEINBERGH AGREED TO MR. SINNOTT'S SUGGESTION, AND AMENDED HER AMENDMENT TO STATE THAT THE MINIMUM TWO-YEAR SUSPENSION WOULD BE RETROACTIVE TO OCTOBER 8, 1997. DR. GARG, AS SECOND, AGREED TO THE REVISED AMENDMENT.

A vote was taken on the motion to amend, as revised by Dr. Steinbergh:

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Gretter	- abstain
	Dr. Egner	- aye
	Mr. Sinnott	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Buchan	- aye

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF

PAUL E. PANCOAST, M.D. DR. GARG SECONDED THE MOTION.

Dr. Garg indicated that he accepts Mr. Sinnott's explanation for the need for the minimum two-year suspension to begin, retroactive to October 8, 1997.

A vote was taken on Dr. Steinbergh's motion to approve and confirm, as amended:

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- nay
	Dr. Gretter	- abstain
	Dr. Egner	- aye
	Mr. Sinnott	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Buchan	- aye

The motion carried.

November 17, 1999

Dr. Egner	- aye
Ms. Noble	- aye
Dr. Stienecker	- abstain
Dr. Agresta	- aye
Dr. Garg	- aye
Dr. Buchan	- aye
Dr. Steinbergh	- aye

The motion carried.

JOSHUA C. NELSON, D.O.

Dr. Nelson's request for approval of a monitoring physician was presented to the Board for consideration at this time.

DR. STIENECKER MOVED TO APPROVE MOURAD ABDELMESSIH, M.D., TO SERVE AS DR. NELSON'S MONITORING PHYSICIAN, WITH FOUR HOSPITAL CHARTS REVIEWED PER MONTH. DR. GARG SECONDED THE MOTION. A vote was taken:

Vote:	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

The motion carried.

PAUL E. PANCOAST, M.D.

Dr. Pancoast's request for a reduction in the drug screen requirement was presented to the Board for consideration at this time. Dr. Pancoast has requested a reduction from two specimens per week with one tested to one specimen every two weeks given and tested.

Dr. Steinbergh noted that Mr. Albert is not in favor of this request. She also noted that the Board previously denied Dr. Pancoast's request to modify the screening requirement to one specimen given and tested per week.



STATE MEDICAL BOARD OF OHIO

**NOTICE OF IMMEDIATE SUSPENSION
AND
OPPORTUNITY FOR HEARING**

October 8, 1997

Paul Pancoast, M.D.
2617 Barrington Drive
Toledo, OH 43606

Dear Dr. Pancoast:

In accordance with Sections 2929.24 and 3719.12(B), Ohio Revised Code, the Office of the Prosecuting Attorney of Lucas County, Ohio, reported that on or about August 20, 1997, the Lucas County Court of Common Pleas found you eligible for Treatment in Lieu of Conviction, pursuant to Section 2951.041, of the Ohio Revised Code, for violations of Section 2925.11(A) and (C)(1)(E)(1), Ohio Revised Code, Drug Abuse.

Therefore, pursuant to Section 3719.121(C), Ohio Revised Code, you are hereby notified that your license to practice medicine and surgery in the State of Ohio is immediately suspended. Continued practice after this suspension shall be considered practicing medicine without a certificate in violation of Section 4731.41, Ohio Revised Code.

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

- (1) On or about August 20, 1997, in the Lucas County Court of Common Pleas, you pleaded no contest to three (3) felony counts of Section 2925.11(A) and (C)(1)(E)(1), Ohio Revised Code, Drug Abuse, and were granted Treatment in Lieu of Conviction pursuant to Section 2951.041, Ohio Revised Code.
- (2) Moreover, in order to grant your request for Treatment in Lieu of Conviction, the Court was required by statute to find that your "drug dependence was a factor leading to the criminal activity with which [you

Mailed 10/9/97

were] charged, and rehabilitation through treatment would substantially reduce the likelihood of criminal activity.”

- (3)(a) Further, on or about September 18, 1990, you entered into an a minimum five (5) year Consent Agreement with the State Medical Board of Ohio in lieu of formal proceedings based upon your violation of Section 4731.22(B)(26), Ohio Revised Code.

In the Consent Agreement, you admitted that you had a history of substance abuse and dependency that began in the mid-seventies, and included the use or abuse of marijuana, alcohol, cocaine, Percodan, and intravenous Demerol. Further, you admitted that you had completed three weeks of inpatient treatment at Riverside Methodist Hospital in 1989, after you submitted to a Board ordered examination for impairment.

- (3)(b) Further, on or about April 14, 1994, you entered into an amended Consent Agreement with the State Medical Board of Ohio after you entered a residency training program in anesthesiology at the Medical College of Ohio in Toledo, Ohio. The amended Consent Agreement permitted you to prescribe, administer, dispense, and order controlled substances under certain conditions and limitations. (A copy of the April 1994 Consent Agreement is attached hereto and incorporated herein.)

- (3)(c) Further, on or about April 18, 1996, you were released from the terms of your April 1994 Consent Agreement with the Board. Following your release from the Agreement, you began abusing Sufenta, a Schedule II narcotic, that you obtained at The Toledo Hospital while practicing as an anesthesiologist.

- (4) Further, your actions as set forth in paragraph (3)(c) above, constitute a relapse under the definition of Chapter 4731-16-01, Ohio Administrative Code.

The acts, conduct, and/or omissions underlying this judicial finding of Eligibility for treatment in Lieu of Conviction for violations of Sections 2925.11(A) and (C)(1)(E)(1), Ohio Revised Code, Drug Abuse, as alleged in paragraph (1) above, individually and/or collectively constitute "(c)ommission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.11(A) and (C)(1)(E)(1), Ohio Revised Code, Drug Abuse.

Further, the acts, conduct, and/or omissions underlying this judicial finding of Eligibility for Treatment in Lieu of conviction for violations of Section 2925.11(A) and (C)(1)(E)(1), as alleged in paragraphs (1) and (2), and the acts, conduct, and/or omissions as alleged in paragraphs (3)(c) and (4) above, individually and/or collectively constitute "(i)mpairment 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." as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.

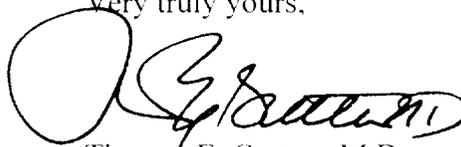
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,

A handwritten signature in black ink, appearing to read "T. E. Gretter", written in a cursive style.

Thomas E. Gretter, M.D.
Secretary

TEG/caf
Enclosures

CERTIFIED MAIL #P152 984 776
RETURN RECEIPT REQUESTED

Paul Pancoast, M.D.
Page 4

cc: Nicholas Hetzer, Esq.
608 Madison Avenue
Suite 1400
Toledo, Ohio 43604-1121

CERTIFIED MAIL # P152 984 776
RETURN RECEIPT REQUESTED.

**AMENDED CONSENT AGREEMENT
BETWEEN
PAUL E. PANCOAST, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO**

STATE MEDICAL BOARD OF OHIO
94 MAR 25 PM 5:17

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

PAUL E. PANCOAST, M.D. enters into this 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.

This CONSENT AGREEMENT is entered into on the basis of the following stipulations, admissions and understandings:

- A. On or about September 18, 1990, PAUL E. PANCOAST, M.D., entered into a CONSENT AGREEMENT (1990 Agreement) with the STATE MEDICAL BOARD OF OHIO, a copy of which is attached hereto and fully incorporated herein.
- B. PAUL E. PANCOAST, M.D., ADMITS that on or about July 19, 1993, he entered into a Stipulation in Settlement with the Division of Medical Quality, Medical Board of California, in settlement of the allegations set forth in the Accusation No. D-5061, issued against him on or about December 28, 1992 on behalf of the Medical Board of California. Copies of the Accusation, Stipulation in Settlement and Decision and Order are attached hereto and fully incorporated herein.
- C. PAUL E. PANCOAST, M.D. entered into a residency training program in anesthesiology at the Medical College of Ohio at Toledo on January 10, 1994.

His duties as a resident will require him to provide services at the Medical College of Ohio Hospital, Flower Hospital and Toledo Hospital and to handle controlled substances.

- D. PAUL E. PANCOAST, M.D. has provided the STATE MEDICAL BOARD OF OHIO with acceptable documentation of successful completion of the Advanced Trauma Life Support Course of the American College of Surgeons Committee on Trauma, as required by the Decision and Order of the Division of Medical Quality, Medical Board of California.

CONSENT AGREEMENT
PAUL E. PANCOAST, M.D.
PAGE 2

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, PAUL E. PANCOAST, M.D., knowingly and voluntarily agrees with THE STATE MEDICAL BOARD OF OHIO, (hereinafter BOARD), to the following probationary terms, conditions and limitations:

1. DOCTOR PANCOAST shall abide by all terms, conditions and limitations of the 1990 Agreement with the STATE MEDICAL BOARD OF OHIO, except as specifically amended herein;
2. Paragraph 3 of the 1990 Agreement is amended to require DOCTOR PANCOAST to appear in person for interviews before the full Board or its designated representative on a quarterly basis, or as otherwise directed by the BOARD;
3. Paragraph 5 of the 1990 Agreement is amended to authorize DOCTOR PANCOAST to transfer his D.E.A. registration to Ohio, in compliance with applicable D.E.A. regulations, provided that DOCTOR PANCOAST limits his use of his D.E.A. registration as provided in Paragraph 4 of this Agreement;
4. DOCTOR PANCOAST shall be permitted to prescribe, administer, dispense, order, write orders for, give verbal orders for, and possess controlled substances as defined by State or Federal law to inpatients only within the physical confines of The Medical College of Ohio Hospital, Flower Hospital and Toledo Hospital and only as part of his duties as a resident in anesthesiology (except as allowed under Paragraph 8 of the 1990 Agreement);
5. Paragraphs 6 & 7 of the 1990 Agreement shall be rescinded.
6. DOCTOR PANCOAST shall strictly adhere to the policies of the Medical College of Ohio at Toledo concerning the control of drugs and the disposal of waste drugs as set forth in the Medical College of Ohio Hospital Policy on Anesthesia Controlled Substances, attached hereto and fully incorporated herein, when performing services at the Medical College of Ohio Hospital.

Prior to utilizing controlled substances pursuant to the duties of his anesthesiology residency program at Flower Hospital or Toledo Hospital, DOCTOR PANCOAST shall submit to the BOARD copies of the applicable policies concerning the control

of drugs and the disposal of waste drugs. If the BOARD finds that his strict adherence to those policies provides adequate assurance of DOCTOR PANCOAST'S accountability for drugs used and/or disposed, the BOARD shall notify DOCTOR PANCOAST in writing that the policies have been accepted and that strict adherence to them shall constitute compliance with this paragraph.

If, following review, the BOARD finds that additional terms, limitations or conditions are needed to provide adequate assurance of DOCTOR PANCOAST'S accountability for drugs used and/or disposed, the BOARD shall notify DOCTOR PANCOAST in writing of the additional terms, limitations or conditions with which he must comply pursuant to this paragraph.

The above described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties. However, this Agreement shall remain in force for a minimum of two (2) years prior to any request for termination of said Agreement.

If, in the discretion of the Secretary and Supervising Member of THE STATE MEDICAL BOARD OF OHIO, DOCTOR PANCOAST appears to have violated or breached any terms or conditions of this Agreement, THE STATE MEDICAL BOARD OF OHIO reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Agreement.

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

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

DOCTOR PANCOAST hereby releases THE STATE MEDICAL BOARD OF OHIO, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

STATE MILEAGE
9th MAR 25 1994

This CONSENT AGREEMENT shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. 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.

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

Paul E Pancoast
PAUL E. PANCOAST, M.D.
3/18/94
DATE

Carla S. O'Day
CARLA S. O'DAY, M.D.
Secretary
4/13/94
DATE

William W. Johnston
WILLIAM W. JOHNSTON, ESQ.
Atty. for Doctor Pancoast
21 Mar 94
DATE

Raymond J. Albert
RAYMOND J. ALBERT
Supervising Member
4/6/94
DATE

ratified

Anne C. Berry
ANNE C. BERRY, ESQ.
Assistant Attorney General
4/4/94
DATE

CONFIDENTIAL

CONSENT AGREEMENT
BETWEEN
PAUL PANCOAST, M.D. CONFIDENTIAL
AND
THE STATE MEDICAL BOARD OF OHIO

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

PAUL PANCOAST, M.D. enters into this 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.

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. THE STATE MEDICAL BOARD OF OHIO is empowered by Section 4731.22(B)(26), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.
- B. THE STATE MEDICAL BOARD OF OHIO enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26), 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. PAUL PANCOAST, M.D. is licensed to practice medicine and surgery in the State of Ohio.
- D. PAUL PANCOAST, M.D., admits that his history of substance abuse and dependency began in the mid-seventies and has included the use or abuse of marijuana, alcohol, cocaine (both by insufflation and intravenous injection), Percodan and intravenous Demerol.
- E. PAUL PANCOAST, M.D., admits that, following a 72-hour evaluation ordered by the State Medical Board, he entered a three week in-patient treatment program at Riverside Hospital, which he successfully completed on September 7, 1989.

WHEREFORE, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, PAUL PANCOAST, M.D., knowingly and voluntarily agrees with THE STATE MEDICAL BOARD OF OHIO, (hereinafter BOARD), to the following probationary terms, conditions and limitations:

1. DOCTOR PANCOAST shall obey all federal, state and local laws, and all rules governing the practice of medicine in Ohio;
2. DOCTOR PANCOAST shall submit quarterly declarations under penalty of perjury stating whether there has been compliance with all the conditions of this Consent Agreement and notifying the Board of any change in residence address or employment status;
3. DOCTOR PANCOAST shall appear in person for interviews before the full BOARD or its designated representative annually, so long as he resides and practices outside Ohio, or as otherwise directed by the BOARD;

CONSENT AGREEMENT
PAUL PANCOAST, M.D.
PAGE TWO

4. DOCTOR PANCOAST shall notify the BOARD in writing prior to moving back to Ohio or resuming practice in Ohio;
5. DOCTOR PANCOAST shall not transfer his DEA registration to Ohio, nor may he hold or apply for registration with the DEA for a registration in Ohio without prior BOARD approval;
6. DOCTOR PANCOAST shall not prescribe, administer, dispense, order, write orders for, give verbal orders for, or possess (except as allowed under Paragraph 7, below) any controlled substance as defined by State or Federal law while in Ohio;
7. DOCTOR PANCOAST shall keep a log of all controlled substances prescribed, administered or dispensed by him while outside Ohio. Such a log shall be submitted to the BOARD on a quarterly basis for review of the BOARD and shall be submitted in the format approved by the BOARD or in the form of copies of such prescriptions;
8. DOCTOR PANCOAST shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of DOCTOR PANCOAST'S history of chemical dependency;
9. DOCTOR PANCOAST shall abstain completely from the use of alcohol;
10. DOCTOR PANCOAST shall submit to random urine screenings for drugs on a weekly basis or as otherwise directed by the BOARD. DOCTOR PANCOAST is to ensure that all screening reports are forwarded directly to the BOARD on a monthly basis;

DOCTOR PANCOAST shall submit the required urine specimens to a supervising physician to be approved by the BOARD. The supervising physician shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the BOARD of any positive screening results. In the event that the designated supervising physician becomes unable or unwilling to so serve, DOCTOR PANCOAST must immediately notify the BOARD in writing, and make arrangements acceptable to the BOARD for another supervising physician as soon as practicable;

11. The Board retains the right to require, and DOCTOR PANCOAST agrees to submit, blood or urine specimens for analysis upon request and without prior notice;
12. Within 30 days of the effective date of this Consent Agreement, DOCTOR PANCOAST shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or Caduceus, acceptable to the BOARD with a frequency to be determined by the Board. Dr. Pancoast shall forward documentary evidence of continuing compliance with this program to the Board on a quarterly basis;

13. DOCTOR PANCOAST shall have a monitoring physician, approved by the BOARD, who shall monitor him and provide the BOARD with reports on the doctor's progress and status. DOCTOR PANCOAST is to ensure that said reports are forwarded to the BOARD on a quarterly basis. In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, DOCTOR PANCOAST must immediately so notify the BOARD in writing, and make arrangements acceptable to the BOARD for another physician to monitor his progress and status as soon as practicable;
14. DOCTOR PANCOAST shall provide all employers and the Chief of Staff at each hospital where he has, applies for, or obtains privileges with a copy of this Consent Agreement;

The above described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties. However, this Agreement shall remain in force for a minimum of five (5) years prior to any request for termination of said Agreement.

If, in the discretion of the Secretary of THE STATE MEDICAL BOARD OF OHIO, DOCTOR PANCOAST appears to have violated or breached any terms or conditions of this Agreement, THE STATE MEDICAL BOARD OF OHIO reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Agreement.

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

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

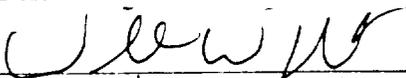
DOCTOR PANCOAST hereby releases THE STATE MEDICAL BOARD OF OHIO, its Members, Employees, Agents, Officers and Representatives jointly and severally from any and all liability arising from the within matter.

This CONSENT AGREEMENT shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code, and shall become effective upon the last date of signature below.



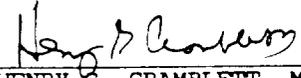
PAUL PANCOAST, M.D.

8-2-90
DATE



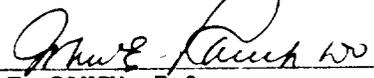
WILLIAM W. JOHNSTON, ESQ.

14 August 1990
DATE



HENRY G. CRAMBLETT, M.D.
Secretary

9/18/90
DATE



JOHN E. RAUCH, D.O.
Supervising Member

9/13/90
DATE



JOHN C. DOWLING, ESQ.
Assistant Attorney General

9/18/90
DATE

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 JANA L. TUTON,
Supervising Deputy Attorney General
3 FRED A. SLIMP II
Deputy Attorney General
4 1515 K Street, Suite 511, P.O. Box 944255
Sacramento, California 94244-2550
5 Telephone: (916) 324-7861

6 Attorneys for Complainant
Medical Board of California, State
7 of California

8
9
10 BEFORE THE
DIVISION OF MEDICAL QUALITY
11 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
12 STATE OF CALIFORNIA

13 In the Matter of the Accusation) No. D-5061
Against:)
14) ACCUSATION
PAUL E. PANCOAST, M.D.)
15 450 Greenfield)
Hanford, CA 93230)
16 Physician's and Surgeon's)
Certificate No.G-56935)
17)
Respondent.)
18)

19 Complainant, Thomas Heerhartz, alleges as follows:

20 1. He is the Acting Executive Director of the Medical
21 Board of California (hereinafter "Board"), and makes and files
22 this accusation solely in his official capacity.

23 2. On or about March 31, 1986, respondent Paul E.
24 Pancoast, M.D. (hereinafter "respondent") was issued Physician's
25 and Surgeon's Certificate No. G-56935 by the Board. At all times
26 pertinent herein, said certificate was, and currently is, in full
27 force and effect.

1 Center shortly before 9 o'clock p.m. suffering from an apparent
2 stab wound to the upper left chest. Respondent examined Troy F.
3 upon his arrival in the emergency room and probed the chest wound
4 with forceps to a depth of approximately 2 cm. Respondent
5 determined that the wound ended at Troy F.'s rib and did not find
6 a further track of the wound between Troy F.'s rib spaces.
7 Respondent did not order chest X-rays to determine whether the
8 chest wound extended into the pericardium. Although Troy F.
9 presented with non-existent or low blood pressure and
10 tachycardia, respondent only ordered intravenous Ringer's lactate
11 to be given with narcan. A surgical consultation was not sought.

12 9. Although respondent characterized Troy F.'s
13 condition as "stable" following administration of lactate and
14 narcan intravenously, at about 10 o'clock p.m. Troy F. stopped
15 breathing and his vital signs were unobtainable. The emergency
16 room staff commenced cardiopulmonary resuscitation attempts with
17 respondent performing a nasotracheal intubation. Troy F. was
18 bagged continuously thereafter with chest compressions.
19 Respondent administered atropine and epinephrine through the
20 previously inserted endotracheal tube. Respondent also gave
21 isuprel and calcium by intravenous drip. With another physician
22 assisting, respondent attempted to re-establish Troy F.'s regular
23 heartbeat by means of external and internal pacemakers without
24 success. At no time during his care of Troy F. did respondent
25 diagnose and treat for pericardial tamponade. At no time did
26 respondent perform, or seek to have performed, a thoracotomy in
27 order to determine the cause of Troy F.'s cardiac distress. An

1 attempt at pericardiocentesis by the assisting physician shortly
2 before Troy F.'s death was unsuccessful. Troy F. was pronounced
3 dead at approximately 10:35 p.m. on December 18, 1991.

4 10. Autopsy indicated that cause of death was cardiac
5 tamponade secondary to penetrating wound of the heart secondary
6 to penetrating stab wound of the chest.

7 11. Respondent's failure to obtain a surgical
8 consultation for Troy F., his assessment of the extent of Troy
9 F.'s chest wound by means of external forceps examination without
10 chest X-ray, his failure to diagnose and treat Troy F.'s
11 pericardial tamponade, and his failure to perform or procure the
12 performance of a diagnostic thoracotomy and a prompt
13 pericardiocentesis constitute repeated negligent acts and
14 incompetence within the meaning of Code sections 2234(c) and
15 2234(d).

16 12. On or about September 18, 1990, respondent entered
17 into a consent agreement in lieu of formal proceedings with the
18 State Medical Board of Ohio in which terms, limitations, and
19 conditions were imposed on respondent's practice for a minimum of
20 five (5) years. Such terms, limitations, and conditions were
21 imposed as a result of respondent's admission of a history of
22 substance abuse and dependency commencing in the mid-seventies
23 and including the use or abuse of marijuana, alcohol, cocaine,
24 percodan, and intravenous demerol. Respondent's practice was
25 limited by requirements to:

26 (a) obey all laws and local rules governing the
27 practice of medicine in Ohio;

- 1 (b) submit quarterly reports detailing compliance
2 with the terms of the agreement and giving notice of residence
3 change or change in employment status;
- 4 (c) make annual or more frequent appearances
5 before the Medical Board of Ohio at its direction;
- 6 (d) notify the Ohio board prior to resuming
7 practice in Ohio;
- 8 (e) not transfer any out of state DEA
9 registration to Ohio, nor hold or apply for an Ohio-based DEA
10 registration, without approval of the Ohio Medical Board;
- 11 (f) not prescribe, administer, dispense, order,
12 or give written or oral orders for controlled substances;
- 13 (g) maintain a log of controlled substances
14 prescribed outside of Ohio for submission to the Ohio Medical
15 Board on a quarterly basis in a format prescribed by the Ohio
16 Medical Board;
- 17 (h) abstain completely from drug possession and
18 use except as prescribed by a physician to whom respondent has
19 disclosed his history of chemical dependency;
- 20 (i) abstain completely from use of alcohol;
- 21 (j) submit to weekly random urine screenings;
- 22 (k) furnish further blood or urine specimens to
23 the Ohio Medical Board upon request and without prior notice as
24 may be deemed necessary by the Ohio Medical Board;
- 25 (l) begin immediate participation in alcohol and
26 drug rehabilitation programs such as Alcoholics Anonymous or
27 Narcotics Anonymous or other programs acceptable to the Ohio

1 Medical Board and report to the Board on a quarterly basis as to
2 progress made;

3 (m) practice with a monitoring physician who
4 shall submit quarterly reports to the Ohio Medical Board;

5 (n) provide all employers or chiefs of staff at
6 hospitals where respondent may have staff privileges with copies
7 of the agreement.

8 13. The disciplinary terms, conditions, and
9 limitations placed on respondent's Ohio medical practice
10 constitute unprofessional conduct within the meaning of section
11 2305 of the Code.

12 WHEREFORE COMPLAINANT PRAYS that the Division of
13 Medical Quality hold a hearing on the matters alleged herein and
14 following said hearing, issue a decision:

15 1. Revoking or suspending physician's and surgeon's
16 certificate number G-56935 heretofore issued to respondent Paul
17 E. Pancoast, M.D.;

18 2. Prohibiting respondent from supervising physician's
19 assistants; and

20 3. Taking such other and further action as it may deem
21 proper.

22 DATED: December 28, 1992

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THOMAS HEERHARTZ
Acting Executive Director
Medical Board of California
State of California
Complainant

MEDICAL BOARD OF CALIFORNIA
I do hereby certify that
this document is true
and correct copy of the
original on file in this
office.

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 JANA TUTON
Supervising Deputy Attorney General
3 FRED A. SLIMP II
Deputy Attorney General
4 1515 K Street, Suite 511
P.O. Box 944255
5 Sacramento, California 94244-2550
Telephone: (916) 324-7861
6 Attorneys for Complainant


SIGNED
12/2/93
DATE
Asst. Custodian of Records
TITLE

8 BEFORE THE
9 DIVISION OF MEDICAL QUALITY
10 MEDICAL BOARD OF CALIFORNIA
11 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

12 In the Matter of the Accusation) No. D-5061
Against:)
13)
PAUL E. PANCOAST, M.D.) STIPULATION IN
14 450 Greenfield) SETTLEMENT; DECISION AND
Hanford, CA 93230) ORDER
15)
Physician's and Surgeon's)
16 Certificate No. G-56935)
17 Respondent.)

18
19 Respondent, Paul E. Pancoast, M.D., by and through his
20 counsel Robert H. Gans, Esq., and the Division of Medical
21 Quality, Medical Board of California (hereinafter "Board"),
22 through its counsel Deputy Attorney General Fred A. Slimp II, do
23 hereby enter into the following stipulation:

24 1. Respondent Paul E. Pancoast, M.D. (hereinafter
25 "respondent") was heretofore issued physician's and surgeon's
26 certificate number G-56935 under the laws of the State of
27 California. At all times pertinent hereto, said certificate was

1 in full force and effect, and will expire, unless otherwise
2 renewed, on August 31, 1994.

3 2. On or about December 28, 1992, an Accusation
4 bearing number D-5061 was filed by Thomas Heerhartz, Acting
5 Executive Director of the Board, in his official capacity as
6 such. Said Accusation alleges causes for disciplinary action
7 against respondent. Respondent was duly and properly served with
8 Accusation No. D-5061 by certified mail, and respondent filed a
9 timely Notice of Defense requesting a hearing on the charges
10 contained in the Accusation.

11 3. Respondent has retained as counsel Robert H. Gans,
12 Esq., who has made respondent fully aware of the charges and
13 allegations of violation of the California Business and
14 Professions Code contained in Accusation No. D-5061, and has also
15 made him fully aware of his rights under the Administrative
16 Procedure Act of the State of California, including his right to
17 a formal hearing and opportunity to defend against the charges
18 contained in Accusation No. D-5061, and reconsideration and
19 appeal of any adverse decision that might be rendered following
20 said hearing. Respondent knowingly and intelligently waives his
21 rights to a hearing, reconsideration, appeal, and to any and all
22 other rights which may be accorded him pursuant to the
23 Administrative Procedure Act regarding the charges contained in
24 Accusation No. D-5061.

25 4. For the purposes of this settlement only,
26 respondent admits the truth of the allegations in Accusation
27 number D-5061. Said admission may be used only in this

1 proceeding and subsequent proceedings between the parties and
2 shall have no force or effect except as provided herein.

3 5. Based on the foregoing admission, the Division of
4 Medical Quality, Medical Board of California, may issue the
5 following order:

6 The license to practice medicine and surgery in the
7 State of California heretofore issued to respondent is hereby
8 revoked; however, the execution of this revocation order is
9 stayed and respondent is placed on five (5) years' probation
10 under the following terms and conditions:

11 (A) As soon as practically possible, but in any event
12 no later than October 29 - 30, 1993, respondent shall take a two-
13 day course in advanced trauma and life support and shall pass the
14 examination given at the conclusion of the course. Within thirty
15 (30) days from the conclusion of the course in advanced trauma
16 and life support, respondent shall present written proof of
17 passing the examination to the Division or its designee. If
18 respondent fails to take or does not pass the examination given
19 at the conclusion of the course, respondent shall take and pass
20 an oral clinical examination in accordance with the provisions of
21 paragraph B, below.

22 (B) Within ninety (90) days of the conclusion of the
23 course in advanced trauma and life support set forth in
24 paragraph A, above, unless respondent shall have presented
25 written proof to the Division or its designee of passing the
26 examination given at the end of said advanced trauma and life
27 support course, respondent shall take and pass an oral or written

1 exam in emergency room medicine to be administered by the
2 Division or its designee. If respondent fails this examination,
3 respondent must take and pass a re-examination consisting of a
4 written as well as an oral examination. The waiting period
5 between repeat examinations shall be at three month intervals
6 until success is achieved. Respondent shall pay the cost of the
7 first examination and any subsequent re-examinations.

8 If respondent fails the first examination, respondent
9 shall cease practice of medicine until the re-examination has
10 been successfully passed, as evidenced by written notice to
11 respondent from the Division. Failure to pass the required
12 examination no later than 100 days prior to the termination date
13 of probation shall constitute a violation of probation.

14 (C) Within ninety (90) days of the effective date of
15 this decision, and on an annual basis thereafter, respondent
16 shall submit to the Division for its prior approval an
17 educational program or course to be designated by the Division,
18 which shall not be less than 40 hours per year, for each year of
19 probation. This program shall be in addition to the Continuing
20 Medical Education requirements for re-licensure. Following the
21 completion of each course, the Division or its designee may
22 administer an examination to test respondent's knowledge of the
23 course. Respondent shall provide proof of attendance for 65
24 hours of continuing medical education of which 40 hours were in
25 satisfaction of this condition and were approved in advance by
26 the Division.

27 / / /

1 (D) Respondent shall successfully complete the
2 Division's Diversion Program in which he is presently enrolled.

3 (E) Respondent shall obey all federal, state and local
4 laws and all rules governing the practice of medicine in
5 California.

6 (F) Respondent shall submit quarterly declarations
7 under penalty of perjury on forms provided by the Division,
8 stating whether there has been compliance with all the conditions
9 of probation.

10 (G) Respondent shall comply with the Division's
11 surveillance program.

12 (H) Respondent shall appear in person for interviews
13 with the Division's medical consultant upon request at various
14 intervals and with reasonable notice.

15 (I) The period of probation shall not run during the
16 time respondent is residing or practicing outside the
17 jurisdiction of California. If, during probation, respondent
18 moves out of California to reside or practice elsewhere,
19 respondent is required to immediately notify the Division in
20 writing of the date of departure and the date of return, if any.

21 (J) Upon successful completion of probation,
22 respondent's certificate will be fully restored.

23 (K) If respondent violates probation in any respect,
24 the Division, after giving respondent notice and the opportunity
25 to be heard, may revoke probation and carry out the disciplinary
26 order that was stayed. If an accusation or petition to revoke
27 probation is filed against respondent during probation, the

1 Division shall have continuing jurisdiction until the matter is
2 final, and the period of probation shall be extended until the
3 matter is final.

4 (L) It is agreed that the terms set forth herein shall
5 be null and void and not binding upon the parties hereto unless
6 approved by the Medical Board of California.

7 DATED: July 26, 1993

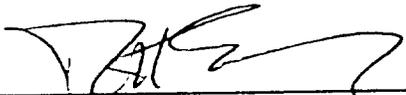
DANIEL E. LUNGREN, Attorney General
of the State of California
JANA L. TUTON, Supervising Deputy
Attorney General



FRED A. SLIMP II
Deputy Attorney General

Attorneys for Complainant

14
15 DATED: 7/19/93

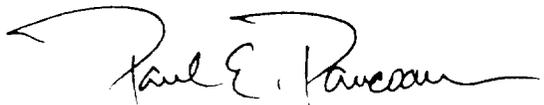


ROBERT H. GANS, ESQ.

Attorney for Respondent

1 I HAVE READ the stipulation, decision and order. I
2 understand that I have the right to a hearing on the charges
3 contained in the Accusation, the right to cross-examine
4 witnesses, and the right to introduce evidence in mitigation.
5 knowingly, voluntarily, and intelligently waive all of these
6 rights, and understand that by signing this stipulation, I am
7 permitting the Board to impose discipline against my license.
8 understand the terms and ramifications of the stipulation,
9 decision and order, and agree to be bound by those terms.

10 DATED:



11 PAUL E. PANCOAST, M.D.

12 Respondent

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DECISION AND ORDER

The foregoing is adopted as the Decision of the
Division of Medical Quality, Medical Board of California, in +
matter and shall become effective on the 28th day of
October, 1993.

IT IS SO ORDERED this 28th day of September, 1993.

DIVISION OF MEDICAL QUALITY
Medical Board of California
Department of Consumer Affairs
State of California

By Theresa L. Claassen
THERESA CLAASSEN
Secretary/Treasurer

inspection under section 149.43 of the Revised Code. The attorney general shall make copies of each report received, and, no later than the fifteenth day of April in the calendar year in which the report is received, shall send a copy of it to the president of the senate and the speaker of the house of representatives.

(3) As used in divisions (J) and (N) of this section:

(a) "Law enforcement agencies" includes, but is not limited to, the state board of pharmacy and the office of a prosecutor.

(b) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(K) If a person is charged with any violation of this section and posts bail pursuant to sections 2937.22 to 2937.46 of the Revised Code or Criminal Rule 46, and if the person forfeits the bail, the forfeited bail shall be paid pursuant to division (J) of this section.

(L) No court shall impose a mandatory fine pursuant to division (H) of this section upon an offender who alleges, in an affidavit filed with the court prior to his sentencing, that he is indigent and is unable to pay any mandatory fine imposed pursuant to that division, if the court determines that the offender is an indigent person and is unable to pay the fine.

(M) In addition to any other penalty imposed for a violation of this section, the court may revoke, and, if it does not revoke the license, shall suspend for not less than six months nor more than five years, the driver's or commercial driver's license of any person who is convicted of or pleads guilty to a violation of this section that is a felony of the first degree and shall suspend for not less than six months nor more than five years the driver's or commercial driver's license of any person who is convicted of or pleads guilty to any other violation of this section. If an offender's driver's or commercial driver's license is revoked pursuant to this division, the offender, at any time after the expiration of two years from the day on which his sentence was imposed or from the day on which he finally was released from imprisonment under the sentence, whichever is later, may file a motion with the sentencing court requesting termination of the revocation; upon the filing of such a motion and the court's finding of good cause for the termination, the court may terminate the revocation.

If the offender is a professionally licensed person or a person who has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules, in addition to any other penalty imposed for a violation of this section, the court forthwith shall comply with section 2925.38 of the Revised Code.

(N) If a person commits any act that violates division (A)(1) of this section and also violates any other provision of the Revised Code, the prosecutor, using customary prosecutorial discretion, may prosecute the person for a violation of the appropriate provision of the Revised Code.

HISTORY: 136 v H 300 (Eff 7-1-76); 141 v S 67 (Eff 8-29-86); 143 v H 215 (Eff 4-11-90); 143 v H 261 (Eff 7-18-90); 143 v H 266 (Eff 9-6-90); 143 v S 258 (Eff 11-20-90); 144 v H 62 (Eff 5-21-91); 144 v S 174 (Eff 7-31-92); 144 v H 591 (Eff 11-2-92); 145 v H 377 (Eff 9-30-93); 145 v H 391 (Eff 7-21-94).

§ 2925.04 Offenses involving unapproved drugs; dangerous drug offenses involving livestock.

(A) No person shall administer, dispense, distribute, manufacture, possess, sell, or use any drug, other than a controlled substance, that is not approved by the United States food and drug administration, or the United States department of agriculture, unless one of the following applies:

(1) The United States food and drug administration has approved an application for investigational use in accordance with the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the drug is used only for the approved investigational use.

(2) The United States department of agriculture has approved an application for investigational use in accordance with the federal "Virus-Serum-Toxin Act," 37 Stat. 832 (1913), 21 U.S.C.A. as amended, 151, as amended, and the drug is used only for the approved investigational use.

(3) A practitioner, other than a veterinarian, prescribes or combines two or more drugs as a single product for medical purposes.

(4) A pharmacist, pursuant to a prescription, compounds and dispenses two or more drugs as a single product for medical purposes.

(B)(1) As used in this division, "dangerous drug," "prescription," "sale at retail," "wholesale distributor of dangerous drugs," and "terminal distributor of dangerous drugs," have the meanings set forth in section 4729.02 of the Revised Code.

(2) Except as provided in division (B)(3) of this section, no person shall administer, dispense, distribute, manufacture, possess, sell, or use any dangerous drug to or for livestock or any animal that is generally used for food or in the production of food, unless the drug is prescribed by a licensed veterinarian by prescription or other written order and the drug is used in accordance with the veterinarian's order or direction.

(3) Division (B)(2) of this section does not apply to a registered wholesale distributor of dangerous drugs, a licensed terminal distributor of dangerous drugs, or a person who possesses, possesses for sale, or sells, at retail, a drug in accordance with Chapters 3719, 4729, or 4741, of the Revised Code.

(C) Whoever violates division (A) or (B)(2) of this section is guilty of a felony of the fourth degree on a first offense. On each subsequent offense, the offender is guilty of a felony of the third degree.

HISTORY: 146 v H 202 (Eff 6-14-95).

[DRUG ABUSE]

§ 2925.11 Drug abuse.

(A) No person shall knowingly obtain, possess, or use a controlled substance.

(B) This section does not apply to the following:

(1) Manufacturers, practitioners, pharmacists, owners of pharmacies, and other persons whose conduct

was in accordance with Chapters 3719., 4715., 4729., 4731., and 4741. of the Revised Code or section 4723.56 of the Revised Code:

(2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States food and drug administration;

(3) Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1935), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that act;

(4) Any person who obtained the controlled substance pursuant to a prescription issued by a practitioner, where the drug is in the original container in which it was dispensed to such person.

(C) Whoever violates this section is guilty of drug abuse, and shall be sentenced as follows:

(1) If the drug involved is a compound, mixture, preparation, or substance included in schedule I or II, with the exception of marijuana, drug abuse is a felony of the fourth degree, and, if the offender previously has been convicted of a drug abuse offense, drug abuse is a felony of the third degree.

(2) If the drug involved is a compound, mixture, preparation, or substance included in schedule III, IV, or V, with the exception of an anabolic steroid, drug abuse is a misdemeanor of the third degree, and if the offender previously has been convicted of a drug abuse offense, drug abuse is a misdemeanor of the second degree.

(3) If the drug involved is marijuana, drug abuse is a misdemeanor of the fourth degree, unless the amount of marijuana involved is less than one hundred grams, the amount of marijuana resin, or extraction or preparation of such resin, is less than five grams, and the amount of such resin in a liquid concentrate, liquid extract, or liquid distillate form, is less than one gram, in which case drug abuse is a minor misdemeanor.

(4) If the drug involved is an anabolic steroid included in schedule III, drug abuse is a misdemeanor of the third degree and, in lieu of sentencing an offender to a definite or indefinite term of imprisonment in a detention facility, the court may place the offender on conditional probation pursuant to division (G) of this section or division (H) of section 2951.02 of the Revised Code, unless the offender previously has been convicted of a drug abuse offense, in which case drug abuse is a misdemeanor of the second degree.

(D) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license,

or other right or privilege, or made in connection with the person's appearance as a witness.

(E)(1) Notwithstanding the fines otherwise required to be imposed pursuant to section 2929.11, 2929.21, or 2929.31 of the Revised Code for violations of this section and notwithstanding section 2929.14 or 2929.22 of the Revised Code, the court shall impose a mandatory fine of two thousand five hundred dollars if the violation of this section was a felony of the third degree, a mandatory fine of one thousand five hundred dollars if the violation of this section was a felony of the fourth degree, a mandatory fine of seven hundred fifty dollars if the violation of this section was a misdemeanor of the second degree, a mandatory fine of five hundred dollars if the violation of this section was a misdemeanor of the third degree, a mandatory fine of two hundred fifty dollars if the violation of this section was a misdemeanor of the fourth degree, and a mandatory fine of one hundred dollars if the violation of this section was a minor misdemeanor.

(2) The court may impose a fine in addition to a mandatory fine imposed pursuant to division (E)(1) of this section if the total of the additional and mandatory fines does not exceed the maximum fine that could be imposed pursuant to section 2929.11, 2929.21, or 2929.31 of the Revised Code.

(3) Notwithstanding any contrary provision of section 3719.21 of the Revised Code, fifty per cent of any mandatory fine imposed pursuant to division (E)(1) of this section shall be paid by the clerk of the court in accordance with and subject to the requirements of, and shall be used as specified in, division (J) of section 2925.03 of the Revised Code, and fifty per cent shall be disbursed as provided in section 3719.21 of the Revised Code. Any additional fine imposed pursuant to division (E)(2) of this section shall be disbursed by the clerk of the court as otherwise provided by law.

(4) If a person is charged with any violation of this section and posts bail pursuant to sections 2937.22 to 2937.46 of the Revised Code or Criminal Rule 46, and if the person forfeits the bail, the forfeited bail shall be paid by the clerk of the court in accordance with and subject to the requirements of, and shall be used as specified in, division (E)(3) of this section.

(5) No court shall impose a mandatory fine pursuant to division (E)(1) of this section upon an offender who alleges, in an affidavit filed with the court prior to his sentencing, that he is indigent and is unable to pay any mandatory fine imposed pursuant to that division, if the court determines the offender is an indigent person and is unable to pay the fine.

(F)(1) In addition to any other penalty imposed for a violation of this section, the court shall suspend for not less than six months nor more than five years the driver's or commercial driver's license of any person who is convicted of or has pleaded guilty to a violation of this section. Division (F)(1) of this section does not apply if the court is required to suspend a pregnant woman's sentence of imprisonment and place her on probation under the circumstances described in division (H) of this section, unless, at any time, the pregnant woman fails to comply with the condition of probation

described in that division and her probation is revoked.

(2) If the offender is a professionally licensed person or a person who has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules, in addition to any other penalty imposed for a violation of this section, the court forthwith shall comply with section 2925.38 of the Revised Code. Division (F)(2) of this section does not apply if the court is required to suspend the sentence of imprisonment of, and to place on probation under the circumstances described in division (H) of this section, a pregnant woman who is a professionally licensed person or is a person who has been admitted to the bar by order of the supreme court, except that, if the pregnant woman at any time fails to comply with the condition of probation described in that division and if the court revokes her probation, the court then shall comply with section 2925.38 of the Revised Code.

(G)(1)(a) In lieu of sentencing an offender, who has pleaded guilty to a violation of this section prior to the commencement of the trial in the criminal action, to a definite or indefinite term of imprisonment in a detention facility, the court may place the offender on conditional probation under this division, with the terms of his probation including the following requirements in addition to any terms of probation that can be imposed pursuant to section 2951.02 of the Revised Code:

(i) The offender shall enter into an alternative residential diversion program as described in division (G)(2) of this section and submit to drug abuse treatment and counseling in the program for the period specified by the court, which period shall be at least ninety days.

(ii) Upon his release from the alternative residential diversion program, the offender shall continue to submit for a period specified by the court, which period shall be at least nine months, to drug abuse outpatient treatment and counseling as specified by the court.

(b) If, at any time, the offender fails to comply with the conditions set forth in division (G)(1)(a) of this section and any other conditions of his probation imposed pursuant to section 2951.02 of the Revised Code, the offender shall be arrested pursuant to section 2951.08 of the Revised Code. The court immediately shall hold a hearing to determine if the offender has failed to comply with the conditions set forth in division (G)(1)(a) of this section and any other conditions of his probation imposed pursuant to section 2951.02 of the Revised Code. If the court determines that the offender has so failed, it immediately shall revoke the offender's conditional probation under this division, impose upon the offender any definite or indefinite term of imprisonment that the court previously could have imposed, and order the offender to commence serving that definite or indefinite term of imprisonment.

(c) If the offender complies with the conditions set forth in division (G)(1)(a) of this section and all other conditions of his probation imposed pursuant to section 2951.02 of the Revised Code, the court shall relieve the offender of the condition of drug abuse treatment and counseling and the other conditions of the probation, enter on its journal a dismissal of the charges against the offender, and discharge the offender.

(2) Each court of common pleas, by local rule, may provide for one or more alternative residential diversion programs that are designed to provide drug abuse treatment and counseling for adults and juveniles who commit violations of this section. The rule shall be consistent with divisions (G)(1) and (3) of this section and all of the following:

(a) The rule shall design the programs so as to reduce the number of future violations of this section in the county by rehabilitating persons who have committed violations of this section, to provide persons who have committed violations of this section and who are not dangerous offenders with residential treatment and counseling alternatives to incarceration in a detention facility, to reduce overcrowding conditions in detention facilities in the county and elsewhere in the state, and to provide, at the same time, for the safety of residents of this state during the period the persons who have committed violations of this section are receiving treatment and counseling as described in division (G)(1) of this section.

(b) The rule shall require that the programs be used for qualified persons who commit violations of this section and who the trial courts in the county have reason to believe are drug dependent persons or persons in danger of becoming drug dependent persons.

(c) The rule shall require that persons who commit violations of this section, other than indigent persons, persons in danger of becoming indigent persons because of their violations of this section, and persons receiving aid to dependent children or disability assistance, are liable for the expenses associated with the treatment and counseling that they receive pursuant to the programs.

(3) Nothing in this division affects, or shall be construed as affecting, the ability of the courts of this state to grant conditional probation under section 2951.04 of the Revised Code or to grant treatment in lieu of conviction under section 2951.041 [2951.04.1] of the Revised Code.

(4) As used in this division:

(a) "Dangerous offender" has the same meaning as in section 2929.01 of the Revised Code.

(b) "Detention facility" has the same meaning as in section 2921.01 of the Revised Code.

(c) "Drug dependent person" and "person in danger of becoming a drug dependent person" have the same meanings as in section 3719.011 [3719.01.1] of the Revised Code.

(H) If a person who has been convicted of or pleaded guilty to a violation of this section is a woman who is pregnant at the time of sentencing for the violation of this section, and if the offender agrees both to receive prenatal care as ordered by the court and to participate in and successfully complete rehabilitation at an appropriate drug treatment facility or program as described in division (B) of section 2951.04 of the Revised Code in connection with the use of any controlled substance, then, in lieu of requiring the offender to serve a term of imprisonment pursuant to division (C) of this section, the court shall suspend the offender's sentence of imprisonment and place her on probation pursuant to

section 2951.02 of the Revised Code, with at least one of the conditions of her probation being that she receive prenatal care as ordered by the court until the birth of her child and participate in and successfully complete rehabilitation at an appropriate drug treatment facility or program as described in division (B) of section 2951.04 of the Revised Code in connection with the use of any controlled substance until she is rehabilitated and released from this requirement by an order of the court.

HISTORY: 138 v S 184, § 5 (Eff 6-20-84); 143 v S 258 (Eff 11-20-90); 144 v H 62 (Eff 5-21-91); 144 v H 298 (Eff 7-26-91); 145 v H 377 (Eff 9-30-93); 145 v H 391 (Eff 7-21-94); 146 v H 249, Eff 7-17-95.

Analogous to former RC § 2925.11 (136 v H 300; 138 v S 184), repealed 138 v S 184, § 4, eff 6-20-84.

§ 2925.12 Possessing drug abuse instruments.

(A) No person shall knowingly make, obtain, possess, or use any instrument, article, or thing whose customary and primary purpose is for the administration or use of a dangerous drug, other than marijuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article, or thing involved has been used by the offender to unlawfully administer or use a dangerous drug, other than marijuana, or to prepare a dangerous drug, other than marijuana, for unlawful administration or use.

(B) This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies, and other persons whose conduct was in accordance with Chapters 3719., 4715., 4729., 4731., and 4741. of the Revised Code or section 4725.56 of the Revised Code.

(C) Whoever violates this section is guilty of possessing drug abuse instruments, a misdemeanor of the second degree. If the offender previously has been convicted of a drug abuse offense, a violation of this section is a misdemeanor of the first degree.

(D)(1) Notwithstanding the fines otherwise required to be imposed pursuant to section 2929.21 or 2929.31 of the Revised Code for violations of this section and notwithstanding section 2929.22 of the Revised Code, the court shall impose a mandatory fine of one thousand dollars if the violation of this section was a misdemeanor of the first degree and a mandatory fine of seven hundred fifty dollars if the violation of this section was a misdemeanor of the second degree.

(2) The court may impose a fine in addition to a mandatory fine imposed pursuant to division (D)(1) of this section if the total of the additional and mandatory fines does not exceed the maximum fine that could be imposed pursuant to section 2929.21 or 2929.31 of the Revised Code.

(3) Notwithstanding any contrary provision of section 3719.21 of the Revised Code, fifty per cent of any mandatory fine imposed pursuant to division (D)(1) of this section shall be paid by the clerk of the court in accordance with and subject to the requirements of, and shall be used as specified in, division (J) of section

2925.03 of the Revised Code, and fifty per cent shall be disbursed as provided in section 3719.21 of the Revised Code. Any additional fine imposed pursuant to division (D)(2) of this section shall be disbursed by the clerk of the court as otherwise provided by law.

(4) If a person is charged with any violation of this section and posts bail pursuant to sections 2937.22 to 2937.46 of the Revised Code or Criminal Rule 46, and if the person forfeits the bail, the forfeited bail shall be paid by the clerk of the court in accordance with and subject to the requirements of, and shall be used as specified in, division (D)(3) of this section.

(5) No court shall impose a mandatory fine pursuant to division (D)(1) of this section upon an offender who alleges, in an affidavit filed with the court prior to his sentencing, that he is indigent and is unable to pay any mandatory fine imposed pursuant to that division, if the court determines the offender is an indigent person and is unable to pay the fine.

(E) In addition to any other penalty imposed for a violation of this section, the court shall suspend for not less than six months nor more than five years the driver's or commercial driver's license of any person who is convicted of or has pleaded guilty to a violation of this section. If the offender is a professionally licensed person or a person who has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules, in addition to any other penalty imposed for a violation of this section, the court forthwith shall comply with section 2925.38 of the Revised Code.

HISTORY: 136 v H 300 (Eff 7-1-76); 143 v S 258 (Eff 11-20-90); 145 v H 377 (Eff 9-30-93); 145 v H 391, Eff 7-21-94.

§ 2925.13 Permitting drug abuse.

(A) No person who is the owner, operator, or person in charge of a locomotive, watercraft, aircraft, or other vehicle as defined in division (A) of section 4501.01 of the Revised Code, shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.

(B) No person who is the owner, lessee, or occupant, or who has custody, control, or supervision, of premises or real estate, including vacant land, shall knowingly permit the premises or real estate, including vacant land, to be used for the commission of a felony drug abuse offense by another person.

(C) Whoever violates this section is guilty of permitting drug abuse, a misdemeanor of the first degree, except that permitting drug abuse is a felony of the fourth degree, if any of the following apply:

(1) The offender previously has been convicted of a drug abuse offense;

(2) The felony drug abuse offense in question is a violation of section 2925.02 or division (A)(1), (5), (7), or (10) of section 2925.03 of the Revised Code that was committed in either of the following ways:

(a) On school premises, in a school building, or within one thousand feet of the boundaries of any school premises;

(b) Within one hundred feet of any juvenile or within