

**STEP II  
CONSENT AGREEMENT  
BETWEEN  
GREGORY GENE JOHNSON, M.D.,  
AND  
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Johnson enters into this Consent Agreement being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

**BASIS FOR ACTION**

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

- A. The Board is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for violation of Section 4731.22(B)(26), Ohio Revised Code, for “impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;” and Section 4731.22(B)(19), Ohio Revised Code, “[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills;” and Section 4731.22(B)(15), Ohio Revised Code, “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice.”
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violations of Sections 4731.22(B)(26), (B)(19), and (B)(15), Ohio Revised Code, as set forth in Paragraphs E. and F., below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement
- C. Dr. Johnson is seeking restoration of his certificate to practice medicine and surgery, license number 35.048254, which was revoked, such revocation stayed, and which was suspended for an indefinite period of time but not less than 365 days, pursuant to the Step I Consent Agreement Between Gregory Gene Johnson, M.D., and the State

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Medical Board of Ohio [April 2010 Step I Consent Agreement], effective April 14, 2010.

- D. Dr. Johnson states that he is not licensed to practice in any other state or jurisdiction.
- E. Dr. Johnson admits that on or about March 4, 2010, he entered treatment for alcohol dependence at Talbott Recovery Campus [Talbott], a Board-approved treatment provider in Atlanta, Georgia. Dr. Johnson admits that on or about June 4, 2010, he left Talbott treatment incomplete with diagnoses of alcohol dependence in clinical remission and Bipolar Disorder Type 2. Dr. Johnson admits further that upon leaving treatment, he entered into a continuing care plan with Talbott that required, *inter alia*, that he document his sobriety for six months then return to Talbott for evaluation for completion of treatment, and that he follow up for continued care with Patrick Gibbons, D.O. [Dr. Gibbons], of the University of Michigan Addiction Treatment Services. Dr. Johnson states, and the Board acknowledges receipt of information to support, that on or about December 5, 2011, he returned to Talbott for a two-day evaluation for completion of treatment, and that Navjyot S. Bedi, M.D., an addiction medicine specialist certified in addiction medicine at Talbott, stated that following this evaluation, he determined that Dr. Johnson has met all requirements set forth in his Talbott continuing care plan and that Dr. Johnson's treatment is complete.

Dr. Johnson states, and the Board acknowledges receipt of information to support, that on or about August 29, 2011, he entered into an aftercare contract with Glenbeigh Center of Toledo, a Board-approved treatment provider, and that he has remained compliant with the terms of such aftercare contract, which is still in effect.

Dr. Johnson states, and the Board acknowledges receipt of information to support, that he was assessed by Dr. Gibbons, an addiction medicine specialist approved by this Board, who stated that Dr. Johnson is capable of practicing medicine and surgery according to acceptable and prevailing standards of care, as long as he continues participation in twelve-step programs, continues with his psychiatric appointments, and provides random urine screens. Further, Dr. Johnson states, and the Board acknowledges receipt of information to support, that he was also assessed by Kenneth H. Alder, M.D., an addiction medicine specialist at Arrowhead Behavioral Health, a Board-approved treatment provider, who states that Dr. Johnson is capable of practicing medicine as long as he is monitored for compliance with random drug and alcohol screens, continues with regular psychiatric treatment, and continues participation in twelve-step programs.

Dr. Johnson states, and the Board acknowledges receipt of information to support, that Melanie S. Haddox, M.D., a psychiatrist approved by this Board, evaluated Dr. Johnson and stated that he is capable of practicing medicine according to acceptable and prevailing standards of care, as long as Dr. Johnson continues psychiatric treatment and continues monitoring with random screening for alcohol use.

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Dr. Johnson states, and the Board acknowledges receipt of information to support, that on or about June 9, 2011, Dr. Johnson took and passed the Special Purpose Examination.

Accordingly, Dr. Johnson states, and the Board acknowledges receipt of information to support, that Dr. Johnson has fulfilled the conditions for reinstatement of his certificate to practice medicine and surgery in the State of Ohio as established in the above-referenced April 2010 Step I Consent Agreement.

- F. Further, Dr. Johnson admits that in or about June 2008, he was diagnosed with psoriatic arthritis in his hands, wrists and feet, and that he consequently experiences pain, swelling, decreased range of motion, and decreased strength in the affected areas. Dr. Johnson admits that as a result of his condition, he is unable to grasp and/or maintain control of certain surgical instruments, has difficulty inserting certain instruments, is unable to manipulate certain body organs during surgery, cannot perform abdominal or pelvic surgeries, and cannot perform vaginal deliveries or office procedures secondary to pain in his hands and limitation of motion of his fingers. Dr. Johnson states that he is currently treated with nonsteroidal anti-inflammatory medication. Dr. Johnson admits that he cannot perform the skills required for the practice of obstetrics and gynecology, cannot perform surgeries, cannot perform fine motor skills (including but not limited to suturing), and cannot perform repetitive motion activities.

Dr. Johnson admits, and the Board acknowledges receipt of information to support, that on or about February 28, 2012, on his own initiative, Dr. Johnson underwent an evaluation by Jeffrey Noftz, P.T., M.D., in order to establish limitations related to his diagnosis of psoriatic arthritis. Dr. Noftz recommended that Dr. Johnson refrain from performing duties as a gynecological surgeon and referred him for a functional capacity evaluation. Dr. Johnson admits that the functional capacity evaluation contained a recommendation that he not return to practice as a surgical obstetrician / gynecologist; that he refrain from the practice of surgery in any form; that he refrain from other duties concomitant with the practice of obstetrics and gynecology; and that he be confined to a practice area that does not require fine dexterous movements.

The Acting Secretary and Acting Supervising Member of the Board, for good cause established, have agreed to accept the reports of Dr. Noftz and the functional capacity evaluation.

#### AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, the certificate of Dr. Johnson to practice medicine and surgery in the State of Ohio shall be RESTORED, and Dr. Johnson knowingly and voluntarily agrees with the Board to the following terms, conditions, and limitations:

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**PERMANENT LICENSE LIMITATION:**

1. Dr. Johnson's certificate to practice medicine and surgery shall be PERMANENTLY RESTRICTED AND LIMITED as follows:
  - a. **Practice Plan:** Dr. Johnson shall not engage in the practice of medicine or surgery unless and until such time that Dr. Johnson shall submit to the Board in writing and receive its approval for a plan of practice in Ohio, and thereafter, Dr. Johnson's practice of medicine and surgery shall be only in accordance with such approved practice plan. The practice plan shall address Dr. Johnson's ability to perform certain medical tasks and procedures as relates to his diagnosis of psoriatic arthritis. Further, the practice plan shall detail Dr. Johnson's medical duties and activities, and shall include the medical procedures and tasks he will be required to perform. Unless otherwise determined by the Board, Dr. Johnson's activities shall be limited to an environment that facilitates Dr. Johnson's ability to function in accordance with acceptable and prevailing standards of care with or without reasonable accommodation of his physical disability as is necessary. Further, Dr. Johnson shall submit a revised practice plan to the Board in writing and obtain the prior approval of the Board should he desire modification to any previously approved practice plan(s).
  - b. **Annual Report:** Within thirty days of each annual anniversary of the effective date of this Consent Agreement, Dr. Johnson shall cause to be submitted to the Board a written report from the physician treating Dr. Johnson's psoriatic arthritis, detailing the status of his functionality and the progress of the disease. Irrespective of such reports, at any point, the Board reserves the right to require that Dr. Johnson undergo an assessment by a physician approved by the Board, at Dr. Johnson's expense, to assess Dr. Johnson's ability to practice medicine and surgery according to acceptable and prevailing standards of care.

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

**PROBATIONARY TERMS:**

2. Dr. Johnson shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
3. Dr. Johnson shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. The first quarterly declaration must be received in the Board's offices on the date his quarterly declaration would have been due pursuant to his April 2010 Consent Agreement with the Board, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

4. Dr. Johnson shall appear in person for an interview before the full Board or its designated representative. The first such appearance shall take place on the date his appearance would have been scheduled pursuant to his April 2010 Step I Consent Agreement with the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
5. Dr. Johnson shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed. Further, the Secretary and Supervising Member of the Board shall have the discretion to grant a waiver of part or all of the probationary terms set forth in this Consent Agreement for occasional periods of absence of fourteen days or less. In the event that Dr. Johnson resides and/or is employed at a location that is within fifty miles of the geographic border of Ohio and any of its contiguous states, Dr. Johnson may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Johnson is able to otherwise maintain full compliance with all other terms, conditions and limitations set forth in this Consent Agreement.
6. In the event Dr. Johnson is found by the Secretary of the Board to have failed to comply with any provision of this Consent Agreement, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Consent Agreement.

## **MONITORING OF REHABILITATION AND TREATMENT**

### **Drug Associated Restrictions**

7. Dr. Johnson shall keep a log of all controlled substances prescribed. Such log shall be submitted, in the format approved by the Board, on the date upon which Dr. Johnson's quarterly declaration is due, or as otherwise directed by the Board. Further, Dr. Johnson shall make his patient records with regard to such prescribing available for review by an agent of the Board immediately upon request.
8. Dr. Johnson shall not, without prior Board approval, administer, personally furnish, or possess (except as allowed under Paragraph 9 below) any controlled substances as defined by state or federal law. In the event that the Board agrees at a future date to modify this Consent Agreement to allow Dr. Johnson to administer or personally furnish controlled substances, Dr. Johnson shall keep a log of all controlled substances prescribed, administered or personally furnished. Such log shall be

submitted in the format approved by the Board and shall be submitted to the Board no later than the date upon which Dr. Johnson's quarterly declaration is due, or as otherwise directed by the Board. Further, Dr. Johnson shall make his patient records with regard to such prescribing, administering, or personally furnishing available for review by an agent of the Board immediately upon request.

### **Sobriety**

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

### **Drug and Alcohol Screens/Drug Testing Facility and Collection Site**

11. Dr. Johnson shall submit to random urine screenings for drugs and alcohol at least two times per month, or as otherwise directed by the Board. Dr. Johnson shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board, and shall include Dr. Johnson's drug(s) of choice.

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

All such urine screenings for drugs and alcohol shall be conducted through a Board-approved drug testing facility and collection site pursuant to the global contract between said facility and the Board, that provides for the Board to maintain ultimate control over the urine screening process and to preserve the confidentiality of all positive screening results in accordance with Section 4731.22(F)(5), Ohio Revised

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Code, and the screening process shall require a daily call-in procedure. Further, in the event that the Board exercises its discretion, as provided in Paragraph 12 below, to approve urine screenings to be conducted at an alternative drug testing facility and/or collection site or a supervising physician, such approval shall be expressly contingent upon the Board retaining ultimate control over the urine screening process in a manner that preserves the aforementioned confidentiality of all positive screening results.

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

Further, within thirty days of the effective date of this Consent Agreement, Dr. Johnson shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug testing facility and/or collection site in order to facilitate the urine screening process in the manner required by this Consent Agreement. Further, Dr. Johnson shall promptly provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Johnson and the Board-approved drug testing facility and/or collection site. Dr. Johnson's failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Consent Agreement. However, Dr. Johnson and the Board further agree that in the event Dr. Johnson previously entered into the aforementioned financial and contractual agreements pursuant to the requirements of a prior consent agreement with the Board under which Dr. Johnson is currently participating in an ongoing urine screening process, then this requirement shall be waived under the instant consent agreement.

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

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

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In the event that the Board-approved drug testing facility and/or collection site becomes unable or unwilling to serve as required by this Consent Agreement, Dr. Johnson must immediately notify the Board in writing, and make arrangements acceptable to the Board pursuant to Paragraph 12 below, as soon as practicable. Dr. Johnson shall further ensure that the Board-approved drug testing facility and/or collection site also notifies the Board directly of its inability to continue to serve and the reasons therefore.

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

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

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

- c. In the event that the designated alternate drug testing facility and/or collection site, or the supervising physician, becomes unable or unwilling to so serve, Dr. Johnson must immediately notify the Board in writing. Dr. Johnson shall further ensure that the previously designated alternate drug testing facility and collection site, or the supervising physician, also notifies the Board directly of the inability to continue to serve and the reasons therefore. Further, in order to ensure that there will be no interruption in his urine screening process, upon the previously approved alternate drug testing facility, collection site, or supervising physician becoming unable to serve, Dr. Johnson shall immediately commence urine screening at the Board-approved drug testing facility and collection site chosen by the Board, until such time, if any, that the Board approves a subsequent alternate drug testing facility, collection site, or supervising physician, if requested by Dr. Johnson.
  - d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Johnson's designated alternate drug testing facility and/or collection site, or any person proposed to serve as his supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
  - e. In the event that the Board approved an alternate drug testing facility and/or collection site, or a supervising physician, pursuant to the April 2010 Step I Consent Agreement between Dr. Johnson and the Board, Dr. Johnson and the Board agree that the entity, facility or person previously approved by the Board to so serve pursuant to the April 2010 Step I Consent Agreement is hereby approved to continue as Dr. Johnson's designated alternate drug testing facility and collection site or as his supervising physician under this Consent Agreement.
13. All screening reports required under this Consent Agreement from the Board-approved drug testing facility and/or collection site, or from the alternate drug testing facility and/or collection site or supervising physician, must be received in the Board's offices no later than the due date for Dr. Johnson's quarterly declaration. It is Dr. Johnson's responsibility to ensure that reports are timely submitted.
  14. The Board retains the right to require, and Dr. Johnson agrees to submit, blood, urine, breath, saliva and/or hair specimens for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Johnson, or for any other purpose, at Dr. Johnson's expense upon the Board's request and without prior

notice. Dr. Johnson's refusal to submit a specimen upon request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.

### **Monitoring Physician**

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

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

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

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

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

### **Rehabilitation Program**

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

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

### **Aftercare**

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

### **Mental Health Treatment**

19. Dr. Johnson shall undergo and continue psychiatric treatment, including individual psychotherapy, at least monthly, or as otherwise directed by the Board. Dr. Johnson and the Board agree that the individuals previously approved by the Board to serve as Dr. Johnson's treating psychiatrist and treating licensed mental health professional pursuant to the April 2010 Step I Consent Agreement are hereby approved to continue as Dr. Johnson's designated treating psychiatrist and treating licensed mental health professional under this Consent Agreement, unless within thirty days of the effective date of this Consent Agreement, Dr. Johnson shall submit to the Board for its prior approval the name and qualifications of an alternative psychiatrist and/or licensed mental health professional of his choice. Dr. Johnson shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered. Dr. Johnson shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the Board on a quarterly basis, or as otherwise directed by the Board. The psychiatric reports shall contain information describing Dr. Johnson's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Johnson's compliance with his treatment plan; Dr. Johnson's mental status; Dr. Johnson's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Johnson shall ensure that his treating psychiatrist immediately notifies the Board of his failure to comply with his psychiatric treatment plan and/or any determination that Dr. Johnson is unable to practice due to his psychiatric disorder. It is Dr. Johnson's responsibility to ensure

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that quarterly reports are received in the Board's offices no later than the due date for Dr. Johnson's quarterly declaration.

The psychotherapy required as part of Dr. Johnson's psychiatric treatment pursuant to this paragraph may be delegated by Dr. Johnson's treating psychiatrist to an appropriately licensed mental health professional approved in advance by the Board, so long as Dr. Johnson's treating psychiatrist oversees/supervises such psychotherapy; includes information concerning Dr. Johnson's participation and progress in psychotherapy in his or her quarterly reports; and continues to meet personally with Dr. Johnson at least at least once every three months. Should the psychotherapy required pursuant to this provision be delegated to a licensed mental health professional, Dr. Johnson shall ensure that psychotherapy reports are forwarded by his treating licensed mental health professional to the Board on a quarterly basis, or as otherwise directed by the Board. The psychotherapy reports shall contain information describing Dr. Johnson's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Johnson's compliance with his treatment plan; Dr. Johnson's mental status; Dr. Johnson's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Johnson shall ensure that his treating licensed mental health professional immediately notifies the Board of his failure to comply with his psychotherapy treatment plan and/or any determination that Dr. Johnson is unable to practice due to his psychiatric disorder. These psychotherapy reports shall be in addition to the reports submitted by Dr. Johnson's treating psychiatrist. It is Dr. Johnson's responsibility to ensure that all quarterly reports are received in the Board's offices no later than the due date for Dr. Johnson's quarterly declaration.

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

The Board expressly reserves the right to disapprove any psychiatrist proposed to serve as Dr. Johnson's designated treating psychiatrist and/or any licensed mental health professional proposed to serve as Dr. Johnson's designated treating licensed mental health professional, or to withdraw approval of any such psychiatrist or licensed mental health professional previously approved to serve as Dr. Johnson's designated treating psychiatrist or licensed mental health professional, in the event that the Secretary and Supervising Member of the Board determine that any such

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psychiatrist or licensed mental health professional has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

### **Releases**

20. Dr. Johnson shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Johnson's chemical dependency, psychiatric condition, psoriatic arthritis, or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Johnson further agrees to provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.

### **Required Reporting by Licensee**

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

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22. Within thirty days of the effective date of this Consent Agreement, Dr. Johnson shall provide a copy of this Consent Agreement to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Dr. Johnson further agrees to provide a copy of this Consent Agreement at time of application to the proper licensing authority of any state in which he applies for any professional license or for reinstatement of any professional license. Further, Dr. Johnson shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
23. Dr. Johnson shall promptly provide a copy of this Consent Agreement to all persons and entities that provide Dr. Johnson evaluation, treatment, or monitoring related to his chemical dependency, psychiatric condition, psoriatic arthritis and/or related conditions. Further, Dr. Johnson shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
24. Dr. Johnson shall notify the Board in writing of any change of principal practice address or residence address within thirty days of such change.

#### **FAILURE TO COMPLY**

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Johnson appears to have violated or breached any term or condition of this Consent Agreement, the Board reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including, but not limited to, alleged violations of the laws of Ohio occurring before

**MEDICAL BOARD**

**MAY 09 2012**

the effective date of this Consent Agreement.

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

### **DURATION/MODIFICATION OF TERMS**

The Permanent License Limitation set forth in Paragraph 1 of this Consent Agreement shall not be modified and shall not terminate. As to the probationary terms set forth in this Consent Agreement, Dr. Johnson shall not request modification to the probationary terms, limitations, and conditions contained herein for at least one year, except that Dr. Johnson may make such request with the mutual approval and joint recommendation of the Secretary and Supervising Member. Further, Dr. Johnson shall not request termination of the probationary period until at least five years from the effective date of this Consent Agreement. Otherwise, the above-described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

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

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

### **ACKNOWLEDGMENTS/LIABILITY RELEASE**

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

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

Dr. Johnson hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate

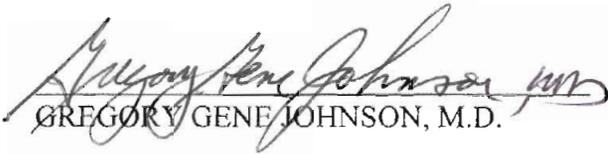
**MEDICAL BOARD**

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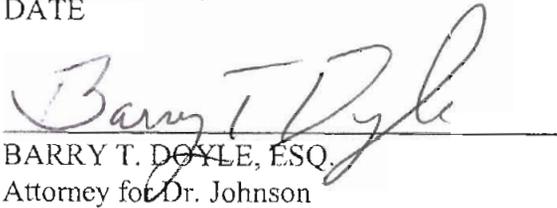
organizations, data banks and governmental bodies. Dr. Johnson acknowledges that his social security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

**EFFECTIVE DATE**

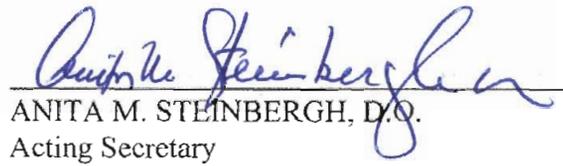
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

  
GREGORY GENE JOHNSON, M.D.

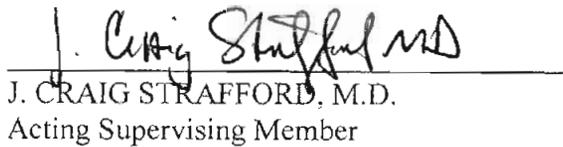
5/2/2012  
DATE

  
BARRY T. DOYLE, ESQ.  
Attorney for Dr. Johnson

5-3-12  
DATE

  
ANITA M. STEINBERGH, D.O.  
Acting Secretary

5-9-12  
DATE

  
J. CRAIG STRAFFORD, M.D.  
Acting Supervising Member

9 May 2012  
DATE

  
KAREN MORTLAND  
Enforcement Attorney

May 7, 2012  
DATE

MEDICAL BOARD  
MAY 07 2012

**STEP I**  
**CONSENT AGREEMENT**  
**BETWEEN**  
**GREGORY GENE JOHNSON, M.D.,**  
**AND**  
**THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Johnson enters into this Consent Agreement being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

**BASIS FOR ACTION**

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

- A. The Board is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for violation of Section 4731.22(B)(26), Ohio Revised Code, for “impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;” and Section 4731.22(B)(15), Ohio Revised Code, “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice.”
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violations of Sections 4731.22(B)(26) and (B)(15), Ohio Revised Code, as set forth in Paragraph E., below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement.
- C. Dr. Johnson is licensed to practice medicine and surgery in the State of Ohio, License number 35.048254, subject to certain probationary terms, conditions, and limitations of a March 11, 2009 Board Order, effective upon mailing on March 12, 2009 [March 2009 Board Order].
- D. Dr. Johnson states that he is not licensed to practice in any other state or jurisdiction.

- E. Dr. Johnson admits that on or about February 24 and 25, 2010, he relapsed by consuming alcohol and medication that had not been prescribed to him, in violation of his March 2009 Board Order.

Dr. Johnson admits that on or about the morning of February 24, 2010, as he was running late, he rushed his stepsons through their morning routine and the boys arrived late for school. Dr. Johnson admits that upon arriving at school at approximately 8:30 a.m., his stepsons were upset, and the school, which was aware of Dr. Johnson's alcohol problem and situation with the Board, contacted the Wood County Children's Protective Services and Dr. Johnson's wife. Dr. Johnson admits further that he was criminally investigated for driving his stepchildren to school while under the influence of alcohol and to the best of his knowledge this investigation has concluded.

Dr. Johnson admits that on or about February 24, 2010, his wife contacted their psychiatrist to report that she believed Dr. Johnson was drinking. Dr. Johnson admits that at the request of his psychiatrist, at approximately 11:37 a.m. on or about February 24, 2010, Dr. Johnson provided a urine sample which was negative for the presence of alcohol. Dr. Johnson admits, however, that after driving back from providing the urine screen to his psychiatrist, he stopped at a bar and consumed two alcoholic beverages, which constituted a relapse.

Dr. Johnson admits that, after arriving at home at about 4:00 p.m. on February 24, 2010, at the request of the Board, he provided an unannounced urine sample for testing for the presence of drugs or alcohol. Dr. Johnson admits that the test result was positive for, and confirmed for the presence of, alcohol.

Dr. Johnson admits further that on or about February 25, 2010, he left a suicide note at his home then drove off, not letting anyone knowing where he was going and without responding to calls to his cell phone. Dr. Johnson admits that because he believed the unannounced screen he provided to the Board on February 24, 2010, was positive for alcohol, he developed a plan to commit suicide by carbon monoxide poisoning, but later changed his mind. Dr. Johnson admits that he drove to a lake, parked his car, then consumed one-third of a bottle of vodka and ingested medications not prescribed to him, including Vyvance and Phenergan. Dr. Johnson admits further that the police, who had been alerted to his disappearance and contemplation of suicide, were eventually able to contact him after he phoned for assistance to remove his car that had gone into a roadside ditch.

Dr. Johnson admits that on or about March 4, 2010, he entered treatment for chemical dependency at The Talbott Recovery Campus, Atlanta, Georgia, a Board-approved treatment provider, where he will remain for ninety days. Dr. Johnson admits further that he is currently unable to practice medicine and surgery according to acceptable and prevailing standards of care due to chemical dependence. Further, Dr. Johnson acknowledges that due to his failure to maintain sobriety for a minimum of one year

following his discharge date from prior inpatient treatment at the Cleveland Clinic on June 25, 2009, he is required to repeat inpatient treatment pursuant to Rule 4731-16-02, Ohio Administrative Code.

### **AGREED CONDITIONS**

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

#### **SUSPENSION OF CERTIFICATE**

1. The certificate to practice medicine and surgery of Dr. Johnson in the State of Ohio is REVOKED, such revocation is hereby STAYED, and the certificate of Dr. Johnson is SUSPENDED for an indefinite period of time, but not less than 365 days.

#### **Obey all Laws**

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

#### **Sobriety**

3. Dr. Johnson shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Johnson's history of chemical dependency. Additionally, such prescribers shall not be family members, as that term is defined by Rule 4731-11-08, Ohio Administrative Code. Further, in the event that Dr. Johnson is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Johnson shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. Johnson received; the medical purpose for which he received said drug; the date such drug was initially received; and the dosage, amount, number of refills, and directions for use. Further, within thirty days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Johnson shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.
4. Dr. Johnson shall abstain completely from the use of alcohol.

#### **Absences from Ohio**

5. Dr. Johnson shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the

Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed. Further, the Secretary and Supervising Member of the Board shall have the discretion to grant a waiver of part or all of the monitoring terms set forth in this Consent Agreement for occasional periods of absence of fourteen days or less. In the event that Dr. Johnson resides and/or is employed at a location that is within fifty miles of the geographic border of Ohio and any of its contiguous states, Dr. Johnson may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Johnson is able to otherwise maintain full compliance with all other terms, conditions and limitations set forth in this Consent Agreement.

Releases; Quarterly Declarations and Appearances

6. Dr. Johnson shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Johnson's chemical dependency or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Johnson further agrees to provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.
7. Dr. Johnson shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Consent Agreement becomes effective, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
8. Dr. Johnson shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Consent Agreement. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

Drug & Alcohol Screens; Drug Testing Facility and Collection Site

9. Dr. Johnson shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Johnson shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board, and shall include Dr. Johnson's drug(s) of choice.

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

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

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

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

documentation to the Board of completion of such arrangements, shall constitute a violation of this Consent Agreement.

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

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

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

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

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

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

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

12. The Board retains the right to require, and Dr. Johnson agrees to submit, blood, urine, breath, saliva and/or hair specimens for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Johnson, or for any other purpose, at Dr. Johnson's expense upon the Board's request and without prior notice. Dr. Johnson's refusal to submit a specimen upon request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.

#### Rehabilitation Program

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

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

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

#### **Mental Health Treatment**

15. Within thirty days of the effective date of this Consent Agreement, Dr. Johnson shall submit to the Board for its prior approval the name and qualifications of a psychiatrist of his choice. Upon approval by the Board, Dr. Johnson shall undergo and continue psychiatric treatment, including individual psychotherapy, at least monthly, or as otherwise directed by the Board. Dr. Johnson shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered. Dr. Johnson shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the Board on a quarterly basis, or as otherwise directed by the Board. The psychiatric reports shall contain information describing Dr. Johnson's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Johnson's compliance with his treatment plan; Dr. Johnson's mental status; Dr. Johnson's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Johnson shall ensure that his treating psychiatrist immediately notifies the Board of his failure to comply with his psychiatric treatment plan and/or any determination that Dr. Johnson is unable to practice due to his psychiatric disorder. It is

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

The psychotherapy required as part of Dr. Johnson's psychiatric treatment pursuant to this paragraph may be delegated by Dr. Johnson's treating psychiatrist to an appropriately licensed mental health professional approved in advance by the Board, so long as Dr. Johnson's treating psychiatrist oversees/supervises such psychotherapy; includes information concerning Dr. Johnson's participation and progress in psychotherapy in his or her quarterly reports; and continues to meet personally with Dr. Johnson at least once every three months. Should the psychotherapy required pursuant to this provision be delegated to a licensed mental health professional, Dr. Johnson shall ensure that psychotherapy reports are forwarded by his treating licensed mental health professional to the Board on a quarterly basis, or as otherwise directed by the Board. The psychotherapy reports shall contain information describing Dr. Johnson's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Johnson's compliance with his treatment plan; Dr. Johnson's mental status; Dr. Johnson's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Johnson shall ensure that his treating licensed mental health professional immediately notifies the Board of his failure to comply with his psychotherapy treatment plan and/or any determination that Dr. Johnson is unable to practice due to his psychiatric disorder. These psychotherapy reports shall be in addition to the reports submitted by Dr. Johnson's treating psychiatrist. It is Dr. Johnson's responsibility to ensure that all quarterly reports are received in the Board's offices no later than the due date for Dr. Johnson's quarterly declaration.

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

The Board expressly reserves the right to disapprove any psychiatrist proposed to serve as Dr. Johnson's designated treating psychiatrist and/or any licensed mental health professional proposed to serve as Dr. Johnson's designated treating licensed mental health professional, or to withdraw approval of any such psychiatrist or licensed mental health professional previously approved to serve as Dr. Johnson's designated treating psychiatrist or licensed mental health professional, in the event that the Secretary and Supervising Member of the Board determine that any such psychiatrist or licensed

mental health professional has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

### **CONDITIONS FOR REINSTATEMENT**

16. The Board shall not consider reinstatement or restoration of Dr. Johnson's certificate to practice medicine and surgery until all of the following conditions are met:
  - a. Dr. Johnson shall submit an application for reinstatement or restoration, as appropriate, accompanied by appropriate fees, if any.
  - b. Dr. Johnson shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
    - i. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Johnson has successfully completed any required inpatient treatment, including at least twenty-eight days of inpatient or residential treatment for chemical abuse/dependence, as set forth in Rules 4731-16-02 and 4731-16-08, Ohio Administrative Code, completed consecutively.
    - ii. Evidence of continuing full compliance with, or successful completion of, a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
    - iii. Evidence of continuing full compliance with this Consent Agreement.
    - iv. Three written reports indicating that Dr. Johnson's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care.

Two reports shall be made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Johnson. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Johnson shall provide the evaluators with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Consent Agreement. The reports from the evaluators shall include any recommendations for treatment,

monitoring, or supervision of Dr. Johnson, and any conditions, restrictions, or limitations that should be imposed on Dr. Johnson's practice. The reports shall also describe the basis for the evaluator's determinations.

One report shall be made by a psychiatrist, approved in advance by the Board, who shall conduct a psychiatric examination of Dr. Johnson. Prior to the examination, Dr. Johnson shall provide the psychiatrist with copies of patient records from any prior evaluations and/or treatment that he has received, and a copy of this Consent Agreement. The report from the evaluating psychiatrist shall include the psychiatrist's diagnoses and conclusions; any recommendations for care, counseling, and treatment for the psychiatric diagnoses; any conditions, restrictions, or limitations that should be imposed on Dr. Johnson's practice; and the basis for the psychiatrist's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

- v. In the event that the Board initiates future formal proceedings against Dr. Johnson, including but not limited to issuance of a Notice of Opportunity for Hearing, Dr. Johnson shall be ineligible for reinstatement until such proceedings are fully resolved by ratification by the Board of a subsequent Consent Agreement or issuance by the Board of a final Board Order.
  
- c. Dr. Johnson shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board within 180 days of the date upon which all the above-specified conditions for reinstatement or restoration have been completed or, if the Board and Dr. Johnson are unable to agree on the terms of a written Consent Agreement, then Dr. Johnson further agrees to abide by any terms, conditions and limitations imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Ohio Revised Code. The Board shall provide notice to Dr. Johnson that said hearing has been scheduled, advising Dr. Johnson of his hearing rights, and stating the date, time, and location of the hearing at which the Board will present its evidence, after which the Board will make a determination of the matter by Board Order.

Further, upon reinstatement of Dr. Johnson's certificate to practice medicine and surgery in this state, the Board shall require continued monitoring which shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Revised Code. Moreover,

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

17. In the event that Dr. Johnson has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Johnson's fitness to resume practice.

### **REQUIRED REPORTING BY LICENSEE**

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

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

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

#### **DURATION/MODIFICATION OF TERMS**

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

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

#### **FAILURE TO COMPLY**

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Johnson appears to have violated or breached any term or condition of this Consent Agreement, the Board reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches,

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including but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Consent Agreement.

**ACKNOWLEDGMENTS/LIABILITY RELEASE**

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

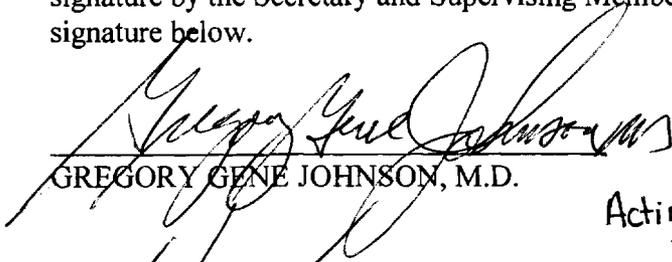
Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

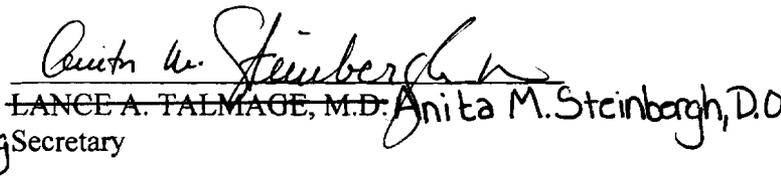
Dr. Johnson hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

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

**EFFECTIVE DATE**

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

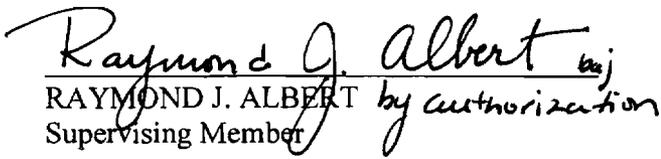
  
GREGORY GENE JOHNSON, M.D.

  
LANCE A. TALMAGE, M.D. Anita M. Steinbergh, D.O.  
Acting Secretary

4/2/2010  
DATE

4-14-10  
DATE

\_\_\_\_\_  
BARRY DOYLE, ESQ.  
Attorney for Dr. Johnson

  
RAYMOND J. ALBERT by authorization  
Supervising Member

\_\_\_\_\_  
DATE

April 14, 2010  
DATE

2010 APR -8 PM 12: 02

including but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Consent Agreement.

**ACKNOWLEDGMENTS/LIABILITY RELEASE**

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

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Dr. Johnson hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

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

**EFFECTIVE DATE**

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

\_\_\_\_\_  
GREGORY GENE JOHNSON, M.D.

\_\_\_\_\_  
LANCE A. TALMAGE, M.D.  
Secretary

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE

*Barry T Doyle*  
\_\_\_\_\_  
BARRY DOYLE, ESQ.  
Attorney for Dr. Johnson

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

*4/6/2010*  
\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE

Karen Mortland  
KAREN MORTLAND  
Enforcement Attorney

Apr 8, 2010  
DATE

# State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127



Richard A. Whitehouse, Esq.  
Executive Director

(614) 466-3934  
med.ohio.gov

March 11, 2009

Gregory Gene Johnson, M.D.  
2655 West River Road  
Perrysburg, OH 43351

RE: Case No. 08-CRF-140

Dear Doctor Johnson:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Patricia A. Davidson, Esq., 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, 2009, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of an original Notice of Appeal with the State Medical Board of Ohio and a copy of the Notice of Appeal with the Franklin County Court of Common Pleas. Any such appeal must be filed 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

A handwritten signature in black ink, appearing to read "Carol L. Egner", written over a horizontal line.

Carol L. Egner, M.D.  
Acting Secretary

CLE:jam  
Enclosures

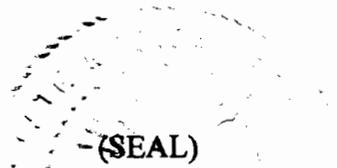
CERTIFIED MAIL NO. 91 7108 2133 3936 3066 4371  
RETURN RECEIPT REQUESTED

*Mailed 3-12-09*

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Patricia A. Davidson, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on March 11, 2009, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Gregory Gene Johnson, M.D., Case No. 08-CRF-140, 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.



  
\_\_\_\_\_  
Carol L. Egner, M.D.  
Acting Secretary

March 11, 2009  
\_\_\_\_\_  
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

\*

\*

CASE NO. 08-CRF-140

GREGORY GENE JOHNSON, M.D.

\*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on March 11, 2009.

Upon the Report and Recommendation of Patricia A. Davidson, 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 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:

- A. **SUSPENSION:** The certificate of Gregory Gene Johnson, M.D., to practice allopathic medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time but not less than 90 days from the effective date of this Order.
- B. **INTERIM MONITORING:** During the period that Dr. Johnson's certificate to practice in Ohio is suspended, he shall comply with the following terms, conditions, and limitations:
  1. **Obey the Law:** Dr. Johnson shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
  2. **Personal Appearances:** Dr. Johnson shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Order, or as otherwise requested by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

3. **Quarterly Declarations:** Dr. Johnson shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

4. **Sobriety**

a. ***Abstention from Drugs:*** Dr. Johnson shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed, or administered to him by another so authorized by law who has full knowledge of Dr. Johnson's history of chemical dependency and who may lawfully prescribe for him (e.g., a physician who is not a family member). Further, in the event that Dr. Johnson is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Johnson shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber, the name of the drug Dr. Johnson received, the medical purpose for which he received the drug, the date the drug was initially received, and the dosage, amount, number of refills, and directions for use. Further, within 30 days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Johnson shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.

b. ***Abstention from Alcohol:*** Dr. Johnson shall abstain completely from the use of alcohol.

5. **Drug & Alcohol Screens; Drug Testing Facility and Collection Site**

a. Dr. Johnson shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Johnson shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug-testing panel utilized must be acceptable to the Secretary of the Board, and shall include Dr. Johnson's drug(s) of choice.

b. Dr. Johnson shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term "toxicology screen" is also used herein for "urine screen" and/or "drug screen.")

All specimens submitted by Dr. Johnson shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Order.

Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Order.

- c. Dr. Johnson shall abstain from the use of any substance that may produce a positive result on a toxicology screen, including the consumption of poppy seeds or other food or liquid that may produce a positive result on a toxicology screen.

Dr. Johnson shall be held to an understanding and knowledge that the consumption or use of various substances, including but not limited to mouthwashes, hand-cleaning gels, and cough syrups, may cause a positive toxicology screen and that unintentional ingestion of a substance is not distinguishable from intentional ingestion on a toxicology screen, and that, therefore, consumption or use of substances that may produce a positive result in a toxicology screen is prohibited under this Order.

- d. All screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and a Board-approved collection site, except as provided in the paragraph below ("Alternative Drug-testing and/or Collection Site"). Further, the screening process shall require a daily call-in procedure.
- e. Within 30 days of the effective date of this Order, Dr. Johnson shall enter into the necessary financial and/or contractual arrangements with a Board-approved drug-testing facility and/or collection site ("DFCS") in order to facilitate the screening process in the manner required by this Order.

Further, within 30 days of making such arrangements, Dr. Johnson shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Johnson and the Board-approved DFCS. Dr. Johnson's failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Order.

- f. Dr. Johnson shall ensure that the urine-screening process performed through the Board-approved DFCS requires a daily call-in procedure, that the urine specimens are obtained on a random basis, and that the giving of the specimen is witnessed by a reliable person.

In addition, Dr. Johnson and the Board-approved DFCS shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- g. Dr. Johnson shall ensure that the Board-approved DFCS provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether

all urine screens have been conducted in compliance with this Order and whether all urine screens have been negative.

- h. In the event that the Board-approved DFCS becomes unable or unwilling to serve as required by this Order, Dr. Johnson must immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to the Paragraph below ("Alternative Drug-testing Facility and/or Collection Site"), as soon as practicable. Dr. Johnson shall further ensure that the Board-approved DFCS also notifies the Board directly of its inability to continue to serve and the reasons therefor.
  - i. Dr. Johnson acknowledges that the Board expressly reserves the right to withdraw its approval of any DFCS in the event that the Secretary and Supervising Member of the Board determine that the DFCS has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
6. **Alternative Drug-testing Facility and/or Collection Site:** It is the intent of this Order that Dr. Johnson shall submit urine specimens to a Board-approved DFCS chosen by the Board. However, in the event that using the Board-approved DFCS creates an extraordinary hardship on Dr. Johnson, as determined in the sole discretion of the Board, then, subject to the following requirements, the Board may approve an alternative DFCS or a supervising physician to facilitate the urine-screening process for Dr. Johnson.
- a. Within 30 days of the date on which Dr. Johnson is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Dr. Johnson, he shall submit to the Board in writing for its prior approval the identity of either an alternative DFCS or the name of a proposed supervising physician to whom Dr. Johnson shall submit the required urine specimens.

In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Johnson's residence or employment location, or to a physician who practices in the same locale as Dr. Johnson. Dr. Johnson shall ensure that the urine-screening process performed through the alternative DFCS or supervising physician requires a daily call-in procedure, that the urine specimens are obtained on a random basis, and that the giving of the specimen is witnessed by a reliable person. In addition, Dr. Johnson acknowledges that the alternative DFCS or supervising physician shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- b. Dr. Johnson shall ensure that the alternative DFCS or supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.

- c. In the event that the designated alternative DFCS or the supervising physician becomes unable or unwilling to so serve, Dr. Johnson must immediately notify the Board in writing. Dr. Johnson shall further ensure that the previously designated alternative DFCS or the supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor. Further, in the event that the approved alternative DFCS or supervising physician becomes unable to serve, Dr. Johnson shall, in order to ensure that there will be no interruption in his urine-screening process, immediately commence urine screening at the Board-approved DFCS chosen by the Board, until such time, if any, that the Board approves a different DFCS or supervising physician, if requested by Dr. Johnson.
  - d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Johnson's designated alternative DFCS or any person proposed to serve as his supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
7. **Reports Regarding Drug & Alcohol Screens:** All screening reports required under this Order from the Board-approved DFCS, the alternative DFCS and/or supervising physician must be received in the Board's offices no later than the due date for Dr. Johnson's quarterly declaration. It is Dr. Johnson's responsibility to ensure that reports are timely submitted.
  8. **Additional Screening without Prior Notice:** On the Board's request and without prior notice, Dr. Johnson must provide a specimen of his blood, breath, saliva, urine, and/or hair for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Johnson, or for any other purpose, at Dr. Johnson's expense. Dr. Johnson's refusal to submit a specimen on request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.
  9. **Rehabilitation Program:** Dr. Johnson shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or C.A., no less than three times per week, or as otherwise ordered by the Board. Substitution of any other specific program must receive prior Board approval. Dr. Johnson shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Johnson's quarterly declarations.

10. **Releases:** Dr. Johnson shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Johnson's chemical dependency/abuse, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Johnson further shall provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.
11. **Absence from Ohio:** Dr. Johnson shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the term of suspension, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
12. **Required Reporting of Change of Address:** Dr. Johnson shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.

C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Johnson's certificate to practice medicine and surgery in Ohio until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Dr. Johnson shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions:** Dr. Johnson shall have maintained compliance with all the terms, conditions and limitations set forth in Paragraph B of this Order.
3. **Evidence of Unrestricted Licensure in Other States:** At the time he submits his application for reinstatement or restoration, Dr. Johnson shall provide written documentation acceptable to the Board verifying that Dr. Johnson otherwise holds a full and unrestricted license to practice in all other states in which he is licensed at the time of application or has been in the past licensed, or that he would be entitled to such license but for the nonpayment of renewal fees.
4. **Demonstration of Ability to Resume Practice:** Dr. Johnson shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with

acceptable and prevailing standards of care. Such demonstration shall include but shall not be limited to the following:

- a. Certification from a treatment provider approved under Section 4731.25, Ohio Revised Code, that Dr. Johnson has successfully completed a minimum of twenty-eight days of inpatient/residential treatment for chemical dependency. Such treatment shall be completed without interruption. Further, such treatment shall be provided in accordance with Rule 4731-16, Ohio Administrative Code, by a treatment provider approved under Section 4731.25, Ohio Revised Code, who has access to Dr. Johnson's treatment records and this Order.
- b. Evidence of continuing full compliance with an aftercare contract with a treatment provider approved under Section 4731.25, Ohio Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10, Ohio Administrative Code.
- c. Evidence of continuing full compliance with this Order.
- d. Two written reports indicating that Dr. Johnson's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care, with respect to chemical dependence/abuse.

The reports shall have been made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Johnson. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Johnson shall provide the assessors with copies of patient records from any evaluation and/or treatment that he has received, and a copy of this Order. The reports of the assessors shall include any recommendations for treatment, monitoring, or supervision of Dr. Johnson, and any conditions, restrictions, or limitations that should be imposed on Dr. Johnson's practice. The reports shall also describe the basis for the assessor's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement or restoration. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

5. **Additional Evidence of Fitness To Resume Practice/SPEX:** In the event that Dr. Johnson has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his/her fitness to resume practice.
  
- D. **PROBATION:** Upon reinstatement or restoration, Dr. Johnson's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
  1. **Obey the Law:** Dr. Johnson shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
  2. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Johnson shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
  3. **Practice Plan:** Prior to Dr. Johnson's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Johnson shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Johnson's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Johnson shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Dr. Johnson submits his practice plan, he shall also submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary or Supervising Member will give preference to a physician who practices in the same locale as Dr. Johnson and who is engaged in the same or similar practice specialty.

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

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

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

Board in writing. In addition, Dr. Johnson shall make arrangements acceptable to the Board for another monitoring physician within 30 days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Johnson 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.

4. **Tolling of Probationary Period while Out of Compliance:** In the event Dr. Johnson is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Johnson's certificate will be fully restored.
- F. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Johnson violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.
- G. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER**
  1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Johnson shall provide a copy of this Order to all employers or entities with which he is under contract to provide health-care services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or health-care center where he has privileges or appointments.

In the event that Dr. Johnson provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider, Dr. Johnson shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

2. **Required Reporting To Other Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Johnson shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate.

Dr. Johnson further shall provide a copy of this Order at the time of application to the proper licensing authority of any state or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Johnson received from the Board written notification of the successful completion of the probation.

3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the effective date of this Order, Dr. Johnson shall promptly provide a copy of this Order to all persons and entities that provide chemical-dependency treatment to or monitoring of Dr. Johnson.
  
4. **Required Documentation of the Reporting Required by Paragraph G:** Dr. Johnson shall provide the Board with one of the following documents as proof of each required notification within 30 days of the date of each such notification: (1) the return receipt of certified mail within 30 days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

**EFFECTIVE DATE:** This Order shall become effective immediately upon the mailing of the notification of approval by the Board.

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



Carol L. Egner, M.D.  
Acting Secretary

March 11, 2009  
Date

**REPORT AND RECOMMENDATION  
IN THE MATTER OF GREGORY GENE JOHNSON, M.D.  
Case No. 08-CRF-140**

2009 FEB 11 P 12: 58

The Matter of Gregory Gene Johnson, M.D., was heard by Patricia A. Davidson, Hearing Examiner for the State Medical Board of Ohio, on January 21, 2009.

Basis for Hearing

In a letter and entry dated December 10, 2008, the State Medical Board of Ohio notified Gregory Gene Johnson, M.D., that the Board had summarily suspended his certificate to practice allopathic medicine and surgery in Ohio. The Board stated that its action was based on clear and convincing evidence of matters including the following: that the Board had ordered Dr. Johnson to undergo a 72-hour inpatient examination to determine whether he is impaired pursuant to Ohio Revised Code Section [R.C.] 4731.22(B)(19) and/or 4731.22(B)(26); that, pursuant to this evaluation, a Board-approved treatment provider determined that Dr. Johnson is impaired in his ability to practice according to acceptable and prevailing standards of care based on alcohol dependence, and recommended that he complete a treatment program with specific features; that Dr. Johnson failed to complete the treatment program as recommended/required; that Dr. Johnson is impaired in violation of R.C. 4731.22(B)(26); and that, based on these factors, Dr. Johnson's continued practice presents a danger of immediate and serious harm to the public, thus authorizing a summary suspension of his certificate pursuant to R.C. 4731.22(G). (St. Ex. 1)

In addition, the Board notified Dr. Johnson that it intended to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to issue or reinstate his certificate, or to reprimand him or place him on probation due to the impairment as alleged, pursuant to R.C. 4731.22(B)(26). The Board advised Dr. Johnson of his right to request a hearing, and received his hearing request on January 7, 2009. (St. Ex. 1) The hearing was held within fifteen days of the hearing request, as required in summary-suspension matters under R.C. 4731.22(G).

Appearances

Richard Cordray, Attorney General, and Yvonne Tertel, Assistant Attorney General, on behalf of the State. Dr. Johnson appeared *pro se*.

Exhibits Examined

State's Exhibit 1: Copy of the Notice of Summary Suspension and Opportunity for Hearing with proofs of service, and hearing request.

State's Exhibit 2: October 2008 letter to Dr. Johnson from the Board.

State's Exhibit 3: December 2008 letter from Shepherd Hill Hospital to the Board (admitted under seal).

State's Exhibit 4: Records from Shepherd Hill Hospital for Dr. Johnson (admitted under seal).

State's Exhibit 5: Audio recording of office conference attended by Dr. Johnson and Board representatives on compact disk (no transcript provided).

Respondent's Exhibit A, B: Records from Arrowhead Behavioral Services regarding Dr. Johnson's inpatient treatment and outpatient program, respectively (admitted under seal).

Respondent's Exhibit C: Report of psychiatric evaluation by Panos Doukides, M.D. (admitted under seal).

Respondent's Exhibit D: Discharge summary by Mahdi N. Doumet, M.D., of The Toledo Hospital (admitted under seal).

## **SUMMARY OF EVIDENCE**

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

### **Background Information**

1. Gregory Gene Johnson, M.D., obtained his medical degree in 1979 from Ohio State University. He has held an Ohio certificate to practice allopathic medicine and surgery (number 35.048254) since 1982. (Ohio eLicense Center at <<https://license.ohio.gov/lookup/default.asp?division=78>, accessed Jan. 22, 2009>)
2. Dr. Johnson indicated that he had completed an OB/GYN residency at Akron City Hospital and practiced as an OB/GYN in Alliance, Ohio, from 1983 to 2002. Dr. Johnson noted that, from 2002 to May 2007, he had worked at Wood County Hospital in Bowling Green, Ohio. Dr. Johnson stated that, from November 7, 2008, through December 1, 2008, he was employed two days per week at Great Lakes Urgent Care Center in Perrysburg, Ohio. (St. Ex. 4 at 71, 83, 85; St. Ex. 5; Resp. Ex. A at 7) In December 2008, the summary suspension was imposed, and Dr. Johnson is currently unemployed. (Tr. at 127)

### **Treatment for Alcohol Dependence at Arrowhead Behavioral Health**

3. Dr. Johnson stated that, due to problems with alcohol consumption, and at the urging of his wife, he had admitted himself for treatment at Arrowhead Behavioral Health in Maumee, Ohio [Arrowhead]. Upon admission on March 26, 2008, the degree of severity of Dr. Johnson's "intoxication/withdrawal" was rated as "high." On March 31, 2008, after five days of inpatient treatment, Dr. Johnson was discharged. The final diagnosis was "alcohol dependence" and "depression not otherwise specified." (Resp. Ex. A at 1, 3, 7; St. Exs. 2, 4-5; Tr. at 37-38)
4. Lurley J. Archambeau, M.D., the attending physician, noted that Dr. Johnson had sought treatment at Arrowhead "because of out-of-control alcohol use," and that Dr. Johnson had been "extremely depressed over an assortment of life and social issues." Dr. Archambeau also noted that Dr. Johnson had arrived at Arrowhead "with a BAL [blood alcohol level] of 0.174 in spite of having not drunk since the day before testing." (Resp. Ex. A at 6)
5. On April 3, 2008, a few days after being discharged from his inpatient treatment, Dr. Johnson entered the intensive outpatient program [IOP] at Arrowhead. According to Dr. Johnson, this

six-week program included numerous meetings of Alcoholics Anonymous and 54 hours of outpatient group therapy. Dr. Johnson testified that, three days per week, he attended sessions that lasted four to five hours, coupled with a minimum of three AA meetings per week, although he said that he had attended more than the minimum. On May 12, 2008, Dr. Johnson was discharged from the outpatient program at Arrowhead. (Resp. Ex. B at 1-6; Tr. at 38)

### **Use of Alcohol in May 2008**

6. On May 10, 2008, Dr. Johnson drank alcohol. He stated that he had found a bottle of liquor in his garage and became severely intoxicated. This episode took place about two days before the end of his outpatient program at Arrowhead. (St. Exs. 3, 4; Resp. Ex. D; Tr. at 105)
7. At hearing, Dr. Johnson admitted that he had an “episode of drinking” at the end of his outpatient treatment. He commented that he was not certain that it met the definition of “relapse,”<sup>1</sup> and he explained as follows:

\* \* \* [T]he episode that occurred in May of 2008, right at the end of my time, I had one day of drinking, recognized immediately that it was wrong, went to my IOP immediately, explained everything that happened, and went on about what – went back to doing my AA program, and I’m still trying to understand that.

(Tr. at 105)

8. Despite Dr. Johnson’s testimony that he immediately reported the use of alcohol to his outpatient program at Arrowhead, the records from Arrowhead as provided by Dr. Johnson include no mention that Dr. Johnson reported an episode of drinking alcohol during his outpatient program. (Resp. Ex. B)

### **Use of Alcohol in September 2008**

9. On September 11, 2008, Dr. Johnson drank alcohol again. He asserted that this use of alcohol did not constitute a relapse. (St. Ex. 3; St. Ex. 4 at 45; Tr. at 35, 119-120)
10. He stated his understanding of a “relapse” as follows:

One of the definitions that I looked up and learned about was the definition of relapse. And \* \* \* my understanding of relapse was that that's a -- it's more than 24

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<sup>1</sup> The Hearing Examiner believes that it is not absolutely necessary to make a determination regarding whether this use of alcohol constituted a relapse as defined in Ohio law, , in order to address the allegations in the Notice. However, at the hearing, Dr. Johnson focused on whether his drinking in May 2008 and in September 2008 constituted a “relapse” so his arguments are reviewed here.

The definition of “relapse” is provided in Rule 4731-16-01(B), Ohio Administrative Code: “Relapse” means any use of \* \* \* alcohol or a drug or substance that may impair ability to practice, by someone who has received a diagnosis of and treatment for chemical dependency or abuse \* \* \*. Excluded from the definition of “relapse” are uses of drugs at the direction of a treating physician with knowledge of the patient’s history and the disease of addiction, or pursuant to a physician’s direction in a medical emergency. Further, an “instance of use that occurs during detoxification treatment or inpatient or residential treatment before a practitioner’s disease of addiction has been brought into remission does not constitute a relapse.”

hours and/or -- and if you -- it's not considered relapse if it's less than 24 hours, and you would notify whoever is providing your care at that point, you would go to for your medical condition.<sup>2</sup>

(Tr. at 111-112)

### **October 2008 - Conference with Board Representatives**

11. On October 4, 2008, Dr. Johnson and his attorney attended an interview or “office conference” with the Board’s Supervising Member, its Acting Secretary, and a Board Enforcement Attorney. Dr. Johnson provided information about his treatment at Arrowhead, his reasons for seeking that treatment, and substantial additional information regarding his personal and professional history. A recording was made of the office conference, with Dr. Johnson’s knowledge, and a copy of the recording was admitted into evidence. (St. Ex. 5; Tr. at 42)

### **Board-Ordered Examination at Shepherd Hill Hospital**

12. By letter dated October 31, 2008, the Board ordered Dr. Johnson to undergo an examination:

The State Medical Board of Ohio [Board] has determined that it has reason to believe that you are in violation of section 4731.22(B)(19) and/or Section 4731.22(B)(26), Ohio Revised Code, to wit: “[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills,” and/or “[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.”

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<sup>2</sup> Given his emphasis on “one day” and “24 hours” and his assertions regarding self-reporting of the drinking in May 2008 and September 2008, Dr. Johnson may have had in mind Rule 4731-16-02(D), which provides in part:

A practitioner who suffers a relapse, as that term is defined in paragraph (B) of rule 4731-16-01 of the Administrative Code, will not be subjected to suspension or other board discipline based on that relapse if all of the following conditions are met:

- (1) The relapse was the first ever suffered by the practitioner;
- (2) The relapse occurred under circumstances that the board finds minimized the probability that the practitioner would either provide patient care while under influence of alcohol or drugs or leave patients without necessary care while under the influence of alcohol or drugs;
- (3) *The relapse involved a single occasion of use for less than one day;*
- (4) *The practitioner self-reported the relapse within forty-eight hours in accordance with rule 4731-15-01 of the Administrative Code;*

\* \* \*

(8) *The practitioner reported the relapse to an approved treatment provider within forty-eight hours, submitted to evaluation as requested by the approved treatment provider, and obtained any additional treatment recommended;*

(9) The practitioner suspended practice until the approved treatment provider reported in writing \* \* \* that the practitioner was capable of practicing according to acceptable and prevailing standards of care;

\* \* \*

(Emphasis added)

This determination is based upon one or more of the following reasons:

(1) On October 4, 2008, in an office conference with representatives of the Board, you reported that you have a problem with alcohol consumption and that on or about March 26, 2008, you had entered Arrowhead Behavioral Health, Maumee, Ohio [Arrowhead] for assessment and outpatient treatment. Arrowhead is not a Board-approved treatment provider. You provided information indicating that you were diagnosed with alcohol dependence and depression.

During the office conference, you reported that over the course of your career as an obstetrician/gynecologist, you had occasionally consumed alcohol at social events while on call but would only do so at the rate of one drink per hour and only when you did not have active labors. You further reported that after you were “let go” from an Ohio hospital as an OB/GYN in 2007, and had more time on your hands, you began to consume alcohol at an increased rate, and that at the height of your alcohol consumption you drank four to five drinks of vodka, your drink of choice, almost daily. In or about October 2007, at the request of your wife, you stopped drinking, but began secretly drinking again in or about February 2008 in response to your depression related to a lost job expectation. In or about March 2008, after discovering you were again drinking, your wife informed you that you needed to get help, and thereafter you admitted yourself to Arrowhead. Your blood alcohol content upon admission to Arrowhead registered 0.174 and you reported that during treatment you had experienced withdrawal symptoms.

When asked during your office conference about reports of angry outbursts during your employment with the afore-mentioned hospital, you admitted you tended to be loud and arrogant especially when under stress.

\*\*\* [Y]ou are ordered to submit to an examination. This examination will take place at Shepherd Hill Hospital \*\*\* Newark, Ohio \*\*\* on Monday, December 1, 2008, at 8:30 a.m. for a 72-hour in-patient evaluation.

(St. Ex. 2) Shepherd Hill Hospital is a department of Licking Memorial Hospital. (St. Ex. 4 at 3)

13. Dr. Johnson was admitted to Shepherd Hill for the examination on December 1, 2008. (St. Ex. 3, St. Ex. 4 at 5, 9; Tr. at 18) According to the records maintained by Shepherd Hill, Dr. Johnson described his history and current status, including the following information:

- his drinking escalated in 2006 due to a bad marriage and the stress of his work;
- he occasionally drank while on call but never to intoxication;
- his job situation changed in May 2007, and his drinking increased substantially;
- in the summer of 2007, he began experiencing relationship problems due to his drinking, he began to have “personality changes,” and he failed in his attempts to reduce his drinking;

- in 2007, his drinking became daily and early in the day, with heavy drinking by the fall of 2007 accompanied by increased tolerance and a few blackouts;
- his fiancée asked him to stop drinking, and he quit from October 2007 to January 2008;<sup>3</sup>
- he and his fiancée married in January 2008;
- he began drinking again in January 2008, and at first he hid it from his wife, but his drinking “escalated out of control”;<sup>4</sup>
- he was drinking 6-10 vodka drinks per day, with blackouts;
- his wife discovered the drinking, intervened, and urged him to stop drinking;
- Dr. Johnson entered treatment for alcohol dependence at Arrowhead, which is not a Board-approved treatment provider; he was treated as an inpatient for five days beginning in March 2008 and then in an IOP [Intensive Outpatient] treatment program in May 2008;
- he admitted to “drinking alcohol next to the last day of his outpatient treatment” at Arrowhead;
- Dr. Johnson had two relapses since the Arrowhead inpatient treatment, one in May 2008 while completing the IOP and another in September 2008;
- Dr. Johnson had no further treatment following the September 2008 relapse;
- at the Shepherd Hill evaluation, he reported himself to be an alcoholic and gave his sobriety date as September 12, 2008;
- he sees a therapist weekly, and he and his wife attend marriage counseling;
- he attends AA and has a home group and sponsor; and
- he “expressed frustration” with the Board’s requirement of a 28-day treatment program because he had already completed a six-week IOP, was attending AA meetings six to seven times per week, and felt that treatment “has nothing more to offer him,” even though he “admits he has relapsed twice since the IOP.”

(St. Ex. 4 at 45, 49, 65, 67, 83)

14. On December 2, 2008, Dr. Johnson was discharged from Shepherd Hill with a final diagnosis of “alcohol dependence.” A discharge form states that Dr. Johnson did not complete the full 72-hour evaluation because he accepted the diagnosis as well as the need for 28 days of treatment at a Board-approved program, and therefore left early to begin treatment, with Board approval. (St. Ex. 4 at 79)
15. The Medical Director of Addiction Services at Shepherd Hill, Richard N. Whitney, M.D.,<sup>5</sup> confirmed at hearing that Dr. Johnson did not complete the full 72 hours because Dr. Johnson had accepted the diagnosis and the need to complete 28 days of inpatient treatment with a Board-approved provider, and felt it did not make sense to spend money and time to complete the evaluation process when he could be starting the required inpatient treatment. (St. Ex. 4 at 79; Tr. at 18-19, 25-26)

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<sup>3</sup>Although Dr. Johnson reported several times that this period of abstinence began in October 2007 (St. Ex. 4 at 45; Resp. Ex. D), he also reported that it began in August 2007. (St. Ex. 4 at 83) However, this discrepancy does not bear on any central issues.

<sup>4</sup>Dr. Johnson testified that he began drinking again in January 2008 because he had hoped for and planned on an employment opportunity that fell through, and he became extremely stressed. (Tr. at 85)

<sup>5</sup>Information regarding Dr. Whitney’s professional background and qualifications was presented at the hearing. (Tr. at 15-17)

16. By letter dated December 2, 2008, Dr. Whitney reported his findings to the Board:

\* \* \* As you know, Dr. Johnson was referred for evaluation due to a previous diagnosis of alcohol dependence and completion of treatment at a non-Board approved facility. Additionally, he has suffered two relapses on alcohol, once while completing outpatient treatment and once subsequent to his treatment.

Dr. Johnson reports a history of alcohol use sufficient to confirm the diagnosis of alcohol dependence. He admits to relapsing to the use of alcohol while in outpatient treatment at Arrowhead and subsequently in September of this year. Evaluation today by psychiatrist Michael Kassur, MD, identified no psychiatric disorders requiring treatment.

I have diagnosed Dr. Johnson with Alcohol Dependence, and presented him with this information today. As you know, he decided to terminate his evaluation prior to its completion in order to begin treatment promptly. In my opinion, Dr. Johnson is currently unable to practice medicine at acceptable and prevailing standards of care. Additionally, I now recommend he complete treatment at a Board-approved treatment program. We provided him a list of State Medical Board of Ohio approved treatment programs today, as well as the Board requirement that he be admitted to an approved facility within 48 hours of receiving this diagnosis.

(St. Ex. 3)

17. Dr. Whitney testified at the hearing, confirming his diagnosis and reiterating his opinion regarding Dr. Johnson's inability to practice within applicable standards of care. In addition, he reaffirmed his recommendation for 28 days of inpatient treatment with a Board-approved provider. Dr. Whitney testified that he believed that Dr. Johnson's alcohol dependence was not in remission because Dr. Johnson had not completed necessary treatment at a Board-approved facility and had used alcohol after the treatment at Arrowhead. Dr. Whitney noted that Dr. Johnson at no time denied or disputed the diagnosis of alcohol dependency and was "very open and honest about his drinking history, and accepted his diagnosis of alcohol dependence." (Tr. at 17-24)
18. Dr. Whitney noted, however, that Dr. Johnson was very distressed that he had not been informed at Arrowhead regarding the mandatory treatment provisions in the Medical Practices Act. (Tr. at 20)
19. Dr. Johnson testified that, upon leaving Shepherd Hill, he felt that he was caught up in a system and that nobody would listen to him, no matter what he did, including his attorney. He stated that he therefore tried to educate himself about the law using the internet. Dr. Johnson stated that one of the first things he learned was the definition of "relapse," and he also researched the meaning of "impairment" under Ohio law. (Tr. at 20, 81-82, 111-112)

### **Admission to Toledo Hospital for 28 Days of Inpatient Treatment**

20. Toledo Hospital is a Board-approved treatment provider. On December 4, 2008, Dr. Johnson was admitted to Toledo Hospital to begin his 28 days of inpatient treatment. Dr. Johnson did not complete 28 days of treatment, however. He was discharged on December 7, 2008. (Tr. at 12, 31, 46-50)

### **Two Medical Reports from Physicians at Toledo Hospital**

21. At the hearing, Dr. Johnson presented two medical reports that he identified as records from Toledo Hospital: a report from Panos Doukides, M.D., and a discharge report from Mahdi Doumet, M.D. (Resp. Exs. C & D)<sup>6</sup> Dr. Johnson did not call either of these physicians as a witness to testify regarding their opinions or diagnosis. (Tr. at 3, 96-97)
22. First, on December 5, 2008, a psychiatric evaluation was performed by Dr. Doukides, who reported in part as follows:

\* \* \* [Dr. Johnson] \* \* \* is a 55-year-old white male physician who had problems with *alcohol abuse and dependence mainly in the last year. He has been a social drinker since then.* He reports that his alcohol [*sic*] was mainly back in May 2007, with increased stress over changing practice. He has been off on that time [*sic*]. He had been drinking two-fifths of vodka per week. He has been sober since October 2007, through January 2008. He relapsed. He had blackouts. \* \* \* [T]he patient reports that he was treated at Arrowhead where he went voluntarily for alcohol abuse. Because of that, he told them [the Board?] of his treatment there. The program at Arrowhead was not approved by the board; therefore, they recommended that he receive a 3-day treatment while at Shepherd Hill. He went there and when the program, they were actually asking if he was alcoholic, he reported that according to the program as he has been going through, he was told he has to consider himself alcoholic and he said that even though he was not using anymore. Because of that statement, he was told that he had to go through a 28-Treatment Program and instead of staying there, he elected to come and join the Alcohol Treatment here in Toledo area instead of being out in south

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<sup>6</sup>The copies presented at hearing were not authenticated, but were accepted into the hearing record for reasons including that that the rules of evidence need not be strictly applied in administrative proceedings, that Dr. Johnson was proceeding without counsel and had a very short time to prepare for hearing due to the summary-suspension laws, and that, based on the use of documents to refresh the recollection of a State's witness, it appeared that the Board had copies of the Toledo Hospital documents prior to the hearing. (Tr. at 60, 85-101)

However, the Hearing Examiner cautioned Dr. Johnson that, because the authors of the reports had not been called as witnesses to explain their findings and submit to cross-examination, the weight, credibility and persuasiveness of the reports could be minimal. The Hearing Examiner noted that, upon further review of the reports after the hearing, it could be determined that some or all statements in the reports lacked credibility, persuasiveness and/or weight. (Tr. at 85-101)

Upon further review of these documents following the hearing, the Hearing Examiner noted that the pages are numbered 1, 2, 5, 6 and 7, which indicates that at least two pages are missing. More importantly, as set forth below under the heading "Evidentiary Determination," the Hearing Examiner concluded that the opinions and diagnosis set forth by Drs. Doukides and Doumet do not constitute reliable and probative evidence on which the Board may rely, due primarily to the lack of an accurate history provided by the patient. Nonetheless, the contents of the reports are set forth here so that the Board may understand Dr. Johnson's arguments and may see the problems that caused the opinions to lack probative value.

of Columbus where the Shepherd Hill is. \* \* \* He reports that he was at Arrowhead as of March 2008. He was there for 5 days inpatient and then 6 weeks of Intensive Outpatient Program, counseling only. He completed this. He also has been following up on outpatient basis with Dr. Melanie Thombre for counseling with his wife. \* \* \* He has also seen a counselor, Patty Blair, but he has not been following up lately.

\* \* \*

DIAGNOSES: In view of the above, the psychiatric diagnoses;  
AXIS 1: 1. Alcohol dependence *in remission since May 2008*.  
2. Anxiety, not otherwise specified.  
3. Adjustment reaction with mixed emotional features.

\* \* \*

#### TREATMENT PLANS

1. As by orders given.
2. The patient will be followed up along with other services for supportive and reality-oriented medical psychotherapy to help him cope with his situation.

(Resp. Ex. C, emphasis added)

23. On December 7, 2008, Dr. Johnson was discharged. A discharge summary was provided by Mahdi N. Doumet, M.D., who reported in part:

The patient \* \* \* is an OB/GYN who apparently had some problem with alcohol off and on since last year. The patient was referred to me for inpatient rehab 28 days board requirement [*sic*] after he was initially evaluated at the Outpatient Center here at WW Knight. \* \* \* No alcohol related problems and no problems with DUIs or any legal issues until about May 2007 after he changed his practice, and apparently he sold his practice at that time and started having too much time on his end, started drinking heavier an average of 2/5 of vodka as spread over a week. The patient was able to maintain sobriety between October 2007 until January 2008. At that time, he relapsed and started getting worse. \* \* \* Between January 2008 and March 26, 2008, he had the worst period of his drinking. Then, he went to Arrowhead on March 26, 2008 until April 1, 2008, and did fairly well after that and was maintaining sobriety doing AA meeting in IOP. Then, claimed on May 10, 2008, while he was cleaning his home garage, he found a bottle of liquor and he had one-time drinking at that time and became severely intoxicated, *and then no further drinking since that one single episode*. The patient was apparently contacted by the state board \* \* \*, and he stated that when he went to the board meeting he voluntarily submitted all the information about his drinking history. Following that, the patient was \* \* \* evaluated and required to do a 28-day program \* \* \*. I admitted the patient for essentially the 3 days' detox and then the total of 28 days rehab, which required by the state board. After our initial evaluation to the patient, he did not have *any withdrawal symptoms or sign of impairment related to alcohol at this time*. The patient was *planning to stay with the program* for the total of 28 as required, and then on my evaluation today in our followup meeting, *the patient stated that he has changed his mind about his previous planning*. He is willing to stay here for the 72 hours required initially, but he is planning to explore his options and planning to challenge the board requirement. He is in contact with his all lawyers and he has decided that he will not sign the step

one agreement by the state board, and instead he will be essentially taking the case to court and challenging it. With these changes, I believe we will keep the patient here until tomorrow by then he will be completing the 72 hours required initially, and he already had the psychiatric evaluation done by Dr. Doukides yesterday; and following that, he could be discharged to home with family and advised to follow up with his regular physician for medical care and followup with his sponsor and to home group as before. He is to avoid any alcohol or drug use, and he is to resume his home medications. Regarding the board requirement, this has at this point become an issue [*sic*] between the patient, his lawyers, and the state board \* \* \* .

(Resp. Ex. D, emphasis added)

24. Dr. Johnson asserts that the discharge report demonstrates that Dr. Doumet “suggested and recommended that I be discharged in 72 hours” because Dr. Doumet “did not see any reason that I needed to stay for the full 28 days.” (Tr. at 12, 117)
25. Dr. Johnson testified, with regard to his failure to tell Dr. Doukides and Dr. Doumet that he had used alcohol in September 2008:

Also I want to make one other point clear in the – both the psychiatric consultation by Dr. Doukides as well as the discharge summary of Dr. Doumet. If you read in there, it says, in both of those [reports], that my last episode of alcohol use was in May of 2008, and I've already disclosed to you earlier that it was September; I had a drink in September of 2008.

I did not disclose that to either \* \* \* Dr. Doukides or Dr. Doumet because the interval time frame from when I left Newark [Shepherd Hill] to when I was admitted to Toledo Hospital, having done my research, and my understanding of what the law was, is that that was not a relapse in view of the fact that it was less than 24 hours, and that I had gone immediately to my home group and clearly admitted that I'd had this—and my home group at that time was who was seeing me for my ongoing sobriety. I was under nobody else's care at that point.<sup>7</sup>

So I want to make that clear in these records why that occurred, again, going back to this pattern of rigorous honesty and not have someone think that perhaps I was trying to not tell the facts.

THE EXAMINER: \* \* \* If I'm understanding you, you're saying that the consumption of alcohol in September of 2008 was not a relapse?

DR. JOHNSON: Correct, based on my—once I got caught up in this—into the system and began—felt like I was being swept along, I tried to learn as fast as I could what I could, what I can understand. And this was my understanding. And that is the

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<sup>7</sup>The Hearing Examiner finds that the excuse for withholding information from treating physicians was not reasonable. Regardless of whether one characterizes the use of alcohol in September 2008 as a “relapse” or an “episode of drinking,” the physicians in the alcohol-treatment program at Toledo Hospital needed to know about it. While Dr. Johnson was more forthcoming during the hearing, he did not have much choice: if he wanted to present the reports, he had to deal with his failure to mention his alcohol use in September 2008, an omission that would be clear to anyone reviewing the evidence.

reason why I did not mention that, but I do want to have that clarified as to why that's there. Again, this gets back to honesty and straightforwardness. \* \* \* That's why I did not mention it, that episode in September to Dr. Doumet or to Dr. Doukides.

THE EXAMINER: All right. To be clear, \* \* \* are you telling me that Dr. Doumet and Dr. Doukides were not aware of this September drinking?

DR. JOHNSON: Correct. And I'm attempting to explain why that is true, why that is there, as far as my understanding. The other point that I questioned is do we have -- the Board states that as physicians we are to be treated differently than the public.

(Tr. at 119-121)

### **Evidentiary Determination**

26. The opinions and diagnosis set forth in the written reports of Drs. Doukides and Doumet, Respondent's Exhibits C and D, do not constitute reliable and probative evidence on which the Board may rely, as a matter of law. First and foremost, neither physician had a complete and accurate history from the patient. Material information was lacking, in that Dr. Johnson had not disclosed that he had used alcohol in mid-September 2008, less than 90 days before their evaluations. This defect in the factual foundation, by itself, negates the probative value of the reports.

Further, several significant statements in the written reports are ambiguous. For example, Dr. Doukides stated that Dr. Johnson had experienced problems with alcohol dependence "in the last year" but has been a "social drinker since then." This statement in itself begs for explanation, and, in addition, Dr. Doukides stated elsewhere in the report that Dr. Johnson had been completely sober since May 2008, which is at odds with a report of social drinking.

### **Testimony by Dr. Johnson's Sponsor in Alcoholics Anonymous**

27. Morris Eaton testified that he is Dr. Johnson's AA sponsor. He stated that they met in the summer of 2008 and he sees Dr. Johnson nearly every day. Mr. Eaton stated that Dr. Johnson has "worked the 12-step program on a regular basis" and that, to the best of his knowledge, Dr. Johnson has been completely sober "during the whole relationship." Mr. Eaton testified that he has not seen signs of use or instances of alcoholic thinking. (Tr. at 64-69)
28. Mr. Eaton noted that he had spoken with Dr. Johnson about leaving Toledo Hospital and had understood from Dr. Johnson that he had been deemed "not alcohol dependent." Mr. Eaton testified that the two of them had "discussed the merits of staying in that program over the Christmas holidays when Dr. Johnson had four children at home" and that Mr. Eaton had encouraged Dr. Johnson to leave. (Tr. at 72-73)

### **Further Testimony by Dr. Johnson**

29. Dr. Johnson acknowledged that he has not completed 28 days of inpatient/residential treatment with a Board-approved treatment provider. (Tr. at 30, 123)

30. Dr. Johnson also acknowledged that he has a problem with alcohol dependence and has a diagnosis of alcoholism. However, he asserts that the condition is in remission and that he is not alcohol-dependent “at this moment.” (Tr. at 34-35)
31. Dr. Johnson further stated that, according to his understanding of “impairment” under Ohio law, “you have to be under the influence of something, alcohol in this case, and you have to be caring for patients.”<sup>8</sup> He testified that he did not practice medicine while intoxicated or under the influence of alcohol. He asserted that, during his practice as an OB/GYN through May 2007, he “never had use of alcohol where it would impair [his] judgment” or where he “would be intoxicated at any time where [he] was caring for patients.” He asserted that he had never entered the hospital in an inebriated state and had never been called before any hospital committee. Further, Dr. Johnson asserted that, during the time that he was drinking heavily, he was not caring for patients; he had left Wood County Hospital in May 2007, after which he began engaging in heavy drinking because he was unemployed and under stress. (Tr. at 82-83)
32. Dr. Johnson emphasizes that he was rigorously honest with the Board during the October 2008 office conference. He asserted that, if he had never volunteered the information about his treatment and diagnosis at Arrowhead, there would never have been a Board-ordered evaluation and the events that followed. He insists that, if he had not given full information to the Board, “there is no way they would have known” the events on which they relied in taking action. He emphasizes that he recognized in early 2008 that he had a problem and had taken appropriate steps to get treatment, as anyone would for any medical condition. He indicated that, despite his good-faith attempts to do the “right thing” from the beginning, he is nonetheless being required to comply with mandatory and unnecessary treatment requirements. (Tr. at 81-82, 114, 128-130)
33. Dr. Johnson is also aggrieved because, although he had tried to do the right thing by getting treatment voluntarily, no one at Arrowhead ever told him that, as a physician, he would need a certain type of treatment in order to practice medicine, and that the treatment at Arrowhead did not meet the standard. Dr. Johnson testified that, in early 2008 when his heavy drinking was affecting his health and behavior, his wife had insisted that he get help and that, being naïve, he did not know what to do and had consulted his insurance company. He stated that he had been referred to Arrowhead and had admitted himself to that program. Dr. Johnson commented that most physicians in Ohio would not be familiar with the state’s requirements regarding treatment for physicians with alcohol dependence. Dr. Johnson believes, however, that the medical director at Arrowhead should have known and should have informed him. Dr. Johnson believes that, if he had been informed at Arrowhead of the requirements of Ohio law, he could have avoided a lot of what he has gone through. (Tr. at 85-86, 103-105)
34. In addition, Dr. Johnson asserted that, at Shepherd Hill, they misunderstood what he meant when he acknowledged that he is an alcoholic. He explained that, “we who are in AA use a little different language than perhaps the general public does.” He explained that, in AA, a participant will identify himself as “an alcoholic” even when he is no longer using alcohol. He stated: “Just because you identify yourself as an alcoholic doesn’t mean you’re using.” Dr. Johnson likened the situation to a person diagnosed with diabetes who is doing everything he needs to do to keep his blood sugar at good levels, and so is not ill from the disease and can function without any

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<sup>8</sup> The Hearing Examiner is unaware of any legal requirement that, for a determination of impairment under R.C. 4731.22(B)(26), there must be evidence that the practitioner has treated patients while intoxicated.

problems. Dr. Johnson believes that his admission of being “an alcoholic” was misconstrued and given improper emphasis by Shepherd Hill. He felt the “deck was stacked” against him from the moment he admitted to being an alcoholic. He asserted that he was told after the first interview, before he ever saw Dr. Whitney, that he would have to do a 28-day treatment program due to his admission of alcoholism. (Tr. at 106-109, 128-129)

And I was just shocked. I thought, wait a minute, I’m three-and-a half hours from home, and I was expecting to come here for three days, and it’s the holiday season and I have my family and wife, and I can do three days here to document this, but I’m not prepared to do 28 days. And I became concerned, what’s happening to me, I’m losing control here.

(Tr. at 108)

35. Dr. Johnson testified that he was not prepared to stay in treatment at Shepherd Hill for 28 days, particularly over the holiday season, and wanted to look at other options. He stated that Dr. Whitney was very helpful and provided other options, such as Toledo Hospital, which is close to his home and which had a vacancy for him. (Tr. at 109-110)
36. Dr. Johnson does not agree that the mandatory requirement of 28 days of treatment should be applied without consideration of factors such as: the person’s acceptance of a “problem in the past with alcohol abuse”; the person’s “strong, earnest effort to deal with that, to not go back to that way of behaving in the future”; the individual’s regular attendance at AA meetings and the firm support from an AA sponsor; and ongoing participation in therapy. Dr. Johnson believes that a mandatory requirement fails to take account of the individual’s situation: “All these things lead me to feel as though [they]’re interested in ram-rodging us and not listening to the individual and what they have done.” He also expressed frustration with the requirement that treatment must be received at a Board-approved facility in order to meet the law’s requirements. (Tr. at 35, 129-130)

### **FINDINGS OF FACT**

1. In a letter dated October 31, 2008, the Board notified Gregory Gene Johnson, M.D., of its determination that it had reason to believe that he was in violation of R.C. 4731.22(B)(19) and/or 4731.22(B)(26), and the Board ordered him to undergo a 72-hour inpatient examination to determine whether he was impaired pursuant to those statutory provisions. In its letter, the Board stated that its determination was based on one or more reasons that it outlined in the letter, including the following:
  - (a) On October 3, 2008, in an office conference with representatives of the Board, Dr. Johnson reported that he had a problem with alcohol consumption and that, on March 26, 2008, he had had an assessment, and subsequently had received treatment at a treatment provider not approved by the Board. Dr. Johnson provided information indicating that he had been diagnosed with alcohol dependence and depression.
  - (b) During this office conference, Dr. Johnson also reported that, over the course of his career as an obstetrician/gynecologist, he had occasionally consumed alcohol at social

- events while on call but would only do so at the rate of one drink per hour and only when he did not have patients in active labor. He further reported that, after he had been “let go” from an Ohio hospital as an OB/GYN in 2007 and had had more time on his hands, he had begun to consume alcohol at an increased rate, and that, at the height of his alcohol consumption, he was drinking four to five drinks of vodka, his drink of choice, almost daily. In or about October 2007, at the request of his wife, he stopped drinking, but then he began secretly drinking again in or about February 2008 in response to his depression related to a lost job expectation. In or about March 2008, after discovering that he was again drinking, Dr. Johnson’s wife informed him that he needed to get help, and he thereafter entered outpatient treatment.
2. Dr. Johnson attended the examination as ordered at Shepherd Hill Hospital in Newark, Ohio, which is a Board-approved treatment provider.
  3. In a letter dated December 2, 2008, Richard N. Whitney, M.D., Medical Director of Addiction Services at Shepherd Hill, reported that, pursuant to the Board-ordered evaluation commencing on December 1, 2008, he had determined that Dr. Johnson is impaired in his ability to practice according to acceptable and prevailing standards of care. Dr. Whitney recommended that Dr. Johnson complete 28 days of inpatient treatment at a Board-approved treatment program. Dr. Whitney also reported that Dr. Johnson had admitted to using alcohol in May 2008 while in outpatient treatment and using alcohol again in September 2008.
  4. Although Dr. Johnson entered inpatient treatment at a Board-approved treatment provider on December 4, 2008, he left that treatment on December 7, 2008. Accordingly, he has not completed 28 days of inpatient treatment at a Board-approved provider, as recommended by Dr. Whitney and required under Ohio law.

In addition, Dr. Johnson has not entered into an aftercare contract with a Board-approved treatment provider, as required. Further, the Board has not received reliable information that Dr. Johnson has been determined to be capable of practicing in accordance with acceptable and prevailing standards of care.

### CONCLUSIONS OF LAW

1. R.C. 4731.22(B) provides, in pertinent part:

The board \* \* \* shall \* \* \* limit, revoke, or suspend an individual’s certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

\* \* \*

(26) 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.

For the purposes of this division, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a certificate to practice under this chapter, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the board in writing, and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications.

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for certification to practice suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. \* \* \* Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is chosen by the board.

\* \* \* If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's certificate or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or renewed certification to practice, to submit to treatment.

Before being eligible to apply for reinstatement of a certificate suspended under this division, the impaired practitioner shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care under the provisions of the practitioner's certificate. The demonstration shall include, but shall not be limited to, the following:

- (a) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;
- (b) Evidence of continuing full compliance with an aftercare contract or consent agreement;
- (c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination.

The board may reinstate a certificate suspended under this division after that demonstration and after the individual has entered into a written consent agreement.

When the impaired practitioner resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and \* \* \* submission to the board for at least two years of annual

written progress reports made under penalty of perjury stating whether the individual has maintained sobriety.

2. Ohio Administrative Code Section [Rule] 4731-16-01(A) defines the term “impairment” as used in Revised Code 4731:

(A) “Impairment” means 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. Impairment includes inability to practice in accordance with such standards, and inability to practice in accordance with such standards without appropriate treatment, monitoring or supervision.

3. In addition, Rule 4731-16-02 provides in part:

(A) Should the board have reason to believe that any licensee or applicant suffers from impairment, as that term is used in \* \* \* division (B)(26) of section 4731.22 of the Revised Code, \* \* \* it may compel the individual to submit to a mental or physical examination, or both. Such examinations shall be undertaken by an approved treatment provider designated by the board. The notice issued ordering the individual to submit to examination shall delineate acts, conduct or behavior committed or displayed which establish reason to believe that the individual is impaired. Failure to submit to examination ordered by the board constitutes an admission of impairment unless the failure is due to circumstances beyond the individual’s control.

(B) \* \* \* [T]he following general pattern of action shall be followed:

(1) Upon identification by the board of reason to believe that a licensee or applicant is impaired it may compel an examination or examinations as set forth in paragraph (A) of this rule. \* \* \*

(2) If the examination or examinations fail to disclose impairment, no action shall be initiated pursuant to \* \* \* division (B)(26) of section 4731.22 of the Revised Code \* \* \* unless other investigation produces reliable, substantial, and probative evidence demonstrating impairment.

(3) If the examination or examinations disclose impairment, or if the board has other reliable, substantial and probative evidence demonstrating impairment, the board shall initiate proceedings to suspend the license or deny the applicant.  
\* \* \*

The presence of one or more of the following circumstances shall constitute independent proof of impairment and shall support license suspension or denial without the need for an examination:

(a) The individual has relapsed during or following treatment;

\* \* \*

4. Further, Rule 4731-16-02(B)(3) provides that if an examination discloses impairment, or if the Board has other reliable, substantial and probative evidence demonstrating impairment, the Board shall initiate proceedings to suspend the licensee, and may issue an order of summary suspension as provided in R.C. 4731.22(G).
5. Findings of Fact 1 through 4 above, individually and/or collectively, establish Dr. Gregory Gene Johnson's "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," pursuant to R.C. 4731.22(B)(26) and the rules promulgated thereunder.

\* \* \* \* \*

In this matter, Dr. Johnson does not dispute the diagnosis of alcohol dependence but asserts that the condition is in remission and that he should not be required to comply with the state-mandated requirement of 28 days of inpatient treatment with an approved treatment provider. The Hearing Examiner disagrees. Dr. Whitney's opinion on impairment was persuasive. The Medical Practices Act and related rules unequivocally require that a physician licensed in Ohio who is found to be impaired due to alcohol dependence must successfully complete 28 days of inpatient treatment with an approved treatment provider. Dr. Johnson has not satisfied that requirement or advanced a compelling argument why the law should not be followed in his case.

Dr. Johnson's reliance on the fact that he already received extensive treatment at Arrowhead is misplaced. While that treatment may have provided valuable assistance, it clearly was not successful on a long-term basis. Dr. Johnson had two episodes of consuming alcohol within six months of completing the inpatient program.

Dr. Johnson's current sobriety, which he asserts has lasted for more than four months, is commendable but does not conclusively establish that he need not comply with the mandatory requirements for impaired physicians. Since the autumn of 2007, Dr. Johnson been unable to maintain sobriety for more than a few months at a time: in January 2008, he returned to heavy drinking after about four months of sobriety; in May 2008, he engaged in a day of heavy drinking after less than two months of sobriety, following an attempt at treatment; and, in September 2008, he engaged in another episode of drinking. Dr. Johnson clearly is still in the early stages of recovery.

In addition, Dr. Johnson's contentions regarding his personal recovery program were not entirely supported by the evidence. Dr. Johnson admitted in December 2008 that, although he had a counselor, he had "not been following up" with her lately. This lack of regular follow-up suggests that his self-designed recovery program may not be as ideal as asserted.

With regard to the diagnosis at Shepherd Hill, the evidence shows that Dr. Whitney did *not* base his diagnosis solely on, or automatically on, Dr. Johnson's acknowledgement of being an alcoholic. Dr. Whitney explicitly relied on multiple factors, including the history provided by Dr. Johnson with regard to his drinking, the diagnosis of alcohol dependence by Dr. Archambeau at Arrowhead, the episode of drinking near the conclusion of outpatient treatment at Arrowhead, and the use of alcohol in September 2008. There was nothing in the evidence to suggest that Dr. Whitney, the medical

director of a Board-approved treatment provider, is unfamiliar with the difference between “active” chemical dependence and chemical dependence in remission.

The proposed order would impose a minimum suspension of 90 days, not including the suspension that has been in effect since December 10, 2008.

## **PROPOSED ORDER**

It is hereby ORDERED that:

- A. **SUSPENSION:** The certificate of Gregory Gene Johnson, M.D., to practice allopathic medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time but not less than 90 days from the effective date of this Order.
- B. **INTERIM MONITORING:** During the period that Dr. Johnson’s certificate to practice in Ohio is suspended, he shall comply with the following terms, conditions, and limitations:
  1. **Obey the Law:** Dr. Johnson shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
  2. **Personal Appearances:** Dr. Johnson shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Order, or as otherwise requested by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
  3. **Quarterly Declarations:** Dr. Johnson shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board’s offices on or before the first day of the third month following the month in which this Order becomes effective, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board’s offices on or before the first day of every third month.
  4. **Sobriety**
    - a. ***Abstention from Drugs:*** Dr. Johnson shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed, or administered to him by another so authorized by law who has full knowledge of Dr. Johnson’s history of chemical dependency and who may lawfully prescribe for him (e.g., a physician who is not a family member). Further, in the event that Dr. Johnson is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Johnson shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber, the name of the drug Dr. Johnson received, the medical purpose for which he received the drug, the date the drug was initially

received, and the dosage, amount, number of refills, and directions for use. Further, within 30 days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Johnson shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.

- b. ***Abstinence from Alcohol:*** Dr. Johnson shall abstain completely from the use of alcohol.
5. **Drug & Alcohol Screens; Drug Testing Facility and Collection Site**
- a. Dr. Johnson shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Johnson shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug-testing panel utilized must be acceptable to the Secretary of the Board, and shall include Dr. Johnson's drug(s) of choice.
  - b. Dr. Johnson shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term "toxicology screen" is also used herein for "urine screen" and/or "drug screen.")  
  
All specimens submitted by Dr. Johnson shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Order.  
  
Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Order.
  - c. Dr. Johnson shall abstain from the use of any substance that may produce a positive result on a toxicology screen, including the consumption of poppy seeds or other food or liquid that may produce a positive result on a toxicology screen.  
  
Dr. Johnson shall be held to an understanding and knowledge that the consumption or use of various substances, including but not limited to mouthwashes, hand-cleaning gels, and cough syrups, may cause a positive toxicology screen and that unintentional ingestion of a substance is not distinguishable from intentional ingestion on a toxicology screen, and that, therefore, consumption or use of substances that may produce a positive result in a toxicology screen is prohibited under this Order.
  - d. All screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and a Board-approved collection site, except as provided in the paragraph below ("Alternative Drug-testing and/or Collection Site"). Further, the screening process shall require a daily call-in procedure.
  - e. Within 30 days of the effective date of this Order, Dr. Johnson shall enter into the necessary financial and/or contractual arrangements with a Board-approved

drug-testing facility and/or collection site (“DFCS”) in order to facilitate the screening process in the manner required by this Order.

Further, within 30 days of making such arrangements, Dr. Johnson shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Johnson and the Board-approved DFCS. Dr. Johnson’s failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Order.

- f. Dr. Johnson shall ensure that the urine-screening process performed through the Board-approved DFCS requires a daily call-in procedure, that the urine specimens are obtained on a random basis, and that the giving of the specimen is witnessed by a reliable person.

In addition, Dr. Johnson and the Board-approved DFCS shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- g. Dr. Johnson shall ensure that the Board-approved DFCS provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order and whether all urine screens have been negative.
  - h. In the event that the Board-approved DFCS becomes unable or unwilling to serve as required by this Order, Dr. Johnson must immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to the Paragraph below (“Alternative Drug-testing Facility and/or Collection Site”), as soon as practicable. Dr. Johnson shall further ensure that the Board-approved DFCS also notifies the Board directly of its inability to continue to serve and the reasons therefor.
  - i. Dr. Johnson acknowledges that the Board expressly reserves the right to withdraw its approval of any DFCS in the event that the Secretary and Supervising Member of the Board determine that the DFCS has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
6. **Alternative Drug-testing Facility and/or Collection Site:** It is the intent of this Order that Dr. Johnson shall submit urine specimens to a Board-approved DFCS chosen by the Board. However, in the event that using the Board-approved DFCS creates an extraordinary hardship on Dr. Johnson, as determined in the sole discretion of the Board, then, subject to the following requirements, the Board may approve an alternative DFCS or a supervising physician to facilitate the urine-screening process for Dr. Johnson.
- a. Within 30 days of the date on which Dr. Johnson is notified of the Board’s determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Dr. Johnson, he shall submit to the Board in writing for its prior approval the identity of either an alternative DFCS or the

name of a proposed supervising physician to whom Dr. Johnson shall submit the required urine specimens.

In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Johnson's residence or employment location, or to a physician who practices in the same locale as Dr. Johnson.

Dr. Johnson shall ensure that the urine-screening process performed through the alternative DFCS or supervising physician requires a daily call-in procedure, that the urine specimens are obtained on a random basis, and that the giving of the specimen is witnessed by a reliable person. In addition, Dr. Johnson acknowledges that the alternative DFCS or supervising physician shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- b. Dr. Johnson shall ensure that the alternative DFCS or supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
  - c. In the event that the designated alternative DFCS or the supervising physician becomes unable or unwilling to so serve, Dr. Johnson must immediately notify the Board in writing. Dr. Johnson shall further ensure that the previously designated alternative DFCS or the supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor. Further, in the event that the approved alternative DFCS or supervising physician becomes unable to serve, Dr. Johnson shall, in order to ensure that there will be no interruption in his urine-screening process, immediately commence urine screening at the Board-approved DFCS chosen by the Board, until such time, if any, that the Board approves a different DFCS or supervising physician, if requested by Dr. Johnson.
  - d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Johnson's designated alternative DFCS or any person proposed to serve as his supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
7. **Reports Regarding Drug & Alcohol Screens:** All screening reports required under this Order from the Board-approved DFCS, the alternative DFCS and/or supervising physician must be received in the Board's offices no later than the due date for Dr. Johnson's quarterly declaration. It is Dr. Johnson's responsibility to ensure that reports are timely submitted.
  8. **Additional Screening without Prior Notice:** On the Board's request and without prior notice, Dr. Johnson must provide a specimen of his blood, breath, saliva, urine, and/or hair for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Johnson, or for any other purpose, at Dr. Johnson's expense. Dr. Johnson's refusal to submit a specimen on request of the Board shall result

in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.

9. **Rehabilitation Program**: Dr. Johnson shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or C.A., no less than three times per week, or as otherwise ordered by the Board. Substitution of any other specific program must receive prior Board approval. Dr. Johnson shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Johnson's quarterly declarations.
  10. **Releases**: Dr. Johnson shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Johnson's chemical dependency/abuse, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Johnson further shall provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.
  11. **Absence from Ohio**: Dr. Johnson shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the term of suspension, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
  12. **Required Reporting of Change of Address**: Dr. Johnson shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.
- C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION**: The Board shall not consider reinstatement or restoration of Dr. Johnson's certificate to practice medicine and surgery in Ohio until all of the following conditions have been met:
1. **Application for Reinstatement or Restoration**: Dr. Johnson shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
  2. **Compliance with Interim Conditions**: Dr. Johnson shall have maintained compliance with all the terms, conditions and limitations set forth in Paragraph B of this Order.

3. **Evidence of Unrestricted Licensure in Other States:** At the time he submits his application for reinstatement or restoration, Dr. Johnson shall provide written documentation acceptable to the Board verifying that Dr. Johnson otherwise holds a full and unrestricted license to practice in all other states in which he is licensed at the time of application or has been in the past licensed, or that he would be entitled to such license but for the nonpayment of renewal fees.
4. **Demonstration of Ability to Resume Practice:** Dr. Johnson shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care. Such demonstration shall include but shall not be limited to the following:
  - a. Certification from a treatment provider approved under Section 4731.25, Ohio Revised Code, that Dr. Johnson has successfully completed a minimum of twenty-eight days of inpatient/residential treatment for chemical dependency. Such treatment shall be completed without interruption. Further, such treatment shall be provided in accordance with Rule 4731-16, Ohio Administrative Code, by a treatment provider approved under Section 4731.25, Ohio Revised Code, who has access to Dr. Johnson's treatment records and this Order.
  - b. Evidence of continuing full compliance with an aftercare contract with a treatment provider approved under Section 4731.25, Ohio Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10, Ohio Administrative Code.
  - c. Evidence of continuing full compliance with this Order.
  - d. Two written reports indicating that Dr. Johnson's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care, with respect to chemical dependence/abuse.

The reports shall have been made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Johnson. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Johnson shall provide the assessors with copies of patient records from any evaluation and/or treatment that he has received, and a copy of this Order. The reports of the assessors shall include any recommendations for treatment, monitoring, or supervision of Dr. Johnson, and any conditions, restrictions, or limitations that should be imposed on Dr. Johnson's practice. The reports shall also describe the basis for the assessor's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement or restoration. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment

and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

5. **Additional Evidence of Fitness To Resume Practice/SPEX**: In the event that Dr. Johnson has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his/her fitness to resume practice.

D. **PROBATION**: Upon reinstatement or restoration, Dr. Johnson's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

1. **Obey the Law**: Dr. Johnson shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
2. **Terms, Conditions, and Limitations Continued from Suspension Period**: Dr. Johnson shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
3. **Practice Plan**: Prior to Dr. Johnson's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Johnson shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Johnson's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Johnson shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Dr. Johnson submits his practice plan, he shall also submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary or Supervising Member will give preference to a physician who practices in the same locale as Dr. Johnson and who is engaged in the same or similar practice specialty.

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

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

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Johnson must immediately so notify the Board in writing. In addition, Dr. Johnson shall make arrangements acceptable to the Board for another monitoring physician within 30 days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Johnson 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.

4. **Tolling of Probationary Period while Out of Compliance:** In the event Dr. Johnson is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Johnson's certificate will be fully restored.
- F. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Johnson violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.
- G. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER**
  1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Johnson shall provide a copy of this Order to all employers or entities with which he is under contract to provide health-care services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or health-care center where he has privileges or appointments.

In the event that Dr. Johnson provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider, Dr. Johnson shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

2. **Required Reporting To Other Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Johnson shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate.

Dr. Johnson further shall provide a copy of this Order at the time of application to the proper licensing authority of any state or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This

requirement shall continue until Dr. Johnson received from the Board written notification of the successful completion of the probation.

3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the effective date of this Order, Dr. Johnson shall promptly provide a copy of this Order to all persons and entities that provide chemical-dependency treatment to or monitoring of Dr. Johnson.
  
4. **Required Documentation of the Reporting Required by Paragraph G:** Dr. Johnson shall provide the Board with one of the following documents as proof of each required notification within 30 days of the date of each such notification: (1) the return receipt of certified mail within 30 days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

**EFFECTIVE DATE:** This Order shall become effective immediately upon the mailing of the notification of approval by the Board.

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

  
\_\_\_\_\_  
Patricia A. Davidson  
Hearing Examiner

# State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127



Richard A. Whitehouse, Esq.  
Executive Director

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## EXCERPT FROM THE DRAFT MINUTES OF MARCH 11, 2009

### REPORTS AND RECOMMENDATIONS

Dr. Madia announced that the Board would now consider the Reports and Recommendations and the Proposed Findings And Proposed Order appearing on its agenda.

Dr. Madia asked whether each member of the Board had received, read and considered the hearing record; the Findings of Fact, Conclusions of Law and Proposed Orders, and any objections filed in the matters of Joshua Forest Brockman, M.T.; Marjorie Rasilini Ebenezer, M.D.; Gregory Gene Johnson, M.D.; Gerald William Lane, D.O.; Larson Frederick Langschwager, M.D.; Jay Weldon Martin, M.D.; and the Request for Reconsideration in the Matter of Glenn A. Bollard, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

Dr. Egner advised that she served as Acting Secretary in the case of Dr. Johnson, and would therefore abstain from participating in that case.

Dr. Madia 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. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye

Dr. Mahajan - aye  
Dr. Steinbergh - aye  
Dr. Madia - aye

Dr. Madia noted that, in accordance with the provision in Section 4731.22(F)(2), 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. They may, however, participate in the matters of Dr. Bakhshandeh and Dr. Higgs, as those cases are not disciplinary in nature and concern only the doctors' qualifications for licensure. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

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

.....  
GREGORY GENE JOHNSON, M.D.  
.....

**DR. SUPPAN MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF GREGORY GENE JOHNSON, M.D. DR. VARYANI SECONDED THE MOTION.**  
.....

A vote was taken on Dr. Suppan's motion to approve and confirm:

VOTE:

Mr. Albert	- abstain
Dr. Egner	- abstain
Dr. Suppan	- aye
Dr. Varyani	- aye
Mr. Jacobson	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- aye

The motion carried.

# State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127



Richard A. Whitehouse, Esq.  
Executive Director

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December 10, 2008

Case number: 08-CRF- 140

Gregory Gene Johnson, M.D.  
26566 West River Rd.  
Perrysburg, OH 43551

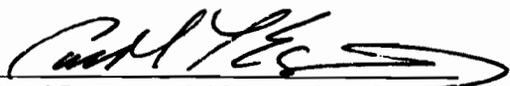
Dear Doctor Johnson:

Enclosed please find certified copies of the Entry of Order, the Notice of Summary Suspension and Opportunity for Hearing, and an excerpt of the Minutes of the State Medical Board, meeting in regular session on December 10, 2008, including a Motion adopting the Order of Summary Suspension and issuing the Notice of Summary Suspension and Opportunity for Hearing.

You are advised that continued practice after receipt of this Order shall be considered practicing without a certificate, in violation of Section 4731.41, Ohio Revised Code.

Pursuant to Chapter 119, Ohio Revised Code, you are hereby advised that you are entitled to a hearing on the matters set forth in the Notice of Summary Suspension and Opportunity for Hearing. If you wish to request such hearing, that request must be made in writing and be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice. Further information concerning such hearing is contained within the Notice of Summary Suspension and Opportunity for Hearing.

THE STATE MEDICAL BOARD OF OHIO

  
Carol L. Egner, M.D., Acting Secretary

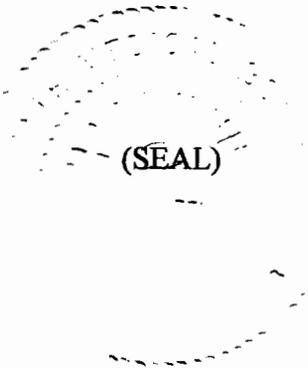
CLE/KHM/FLB  
Enclosures

*Mailed 12-11-08*

**CERTIFICATION**

I hereby certify that the attached copies of the Entry of Order of the State Medical Board of Ohio and the Motion by the State Medical Board, meeting in regular session on December 10, 2008, to Adopt the Order of Summary Suspension and to Issue the Notice of Summary Suspension and Opportunity for Hearing, constitute true and complete copies of the Motion and Order in the Matter of Gregory Gene Johnson, M.D., Case number: 08-CRF- 140 as they appear in the Journal of the State Medical Board of Ohio.

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



  
Carol L. Egner, M.D., Acting Secretary

December 10, 2008  
Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF :  
GREGORY GENE JOHNSON, M.D. :  
CASE NUMBER: 08-CRF- 140 :

**ENTRY OF ORDER**

This matter came on for consideration before the State Medical Board of Ohio the 10th day of December, 2008.

Pursuant to Section 4731.22(G), Ohio Revised Code, and upon recommendation Carol L. Egner, M.D., Acting Secretary, and Raymond J. Albert, Supervising Member; and

Pursuant to their determination, based upon their review of the information supporting the allegations as set forth in the Notice of Summary Suspension and Opportunity for Hearing, that there is clear and convincing evidence that Gregory Gene Johnson, M.D., has violated Section 4731.22(B)(26), Ohio Revised Code, as alleged in the Notice of Summary Suspension and Opportunity for Hearing that is enclosed herewith and fully incorporated herein; and,

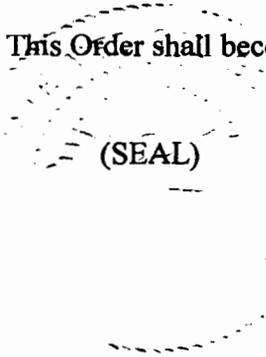
Pursuant to their further determination, based upon their review of the information supporting the allegations as set forth in the Notice of Summary Suspension and Opportunity for Hearing, that Dr. Johnson's continued practice presents a danger of immediate and serious harm to the public;

The following Order is hereby entered on the Journal of the State Medical Board of Ohio for the 10th day of December, 2008:

It is hereby ORDERED that the certificate of Gregory Gene Johnson, M.D., to practice medicine and surgery in the State of Ohio be summarily suspended.

It is hereby ORDERED that Gregory Gene Johnson, M.D., shall immediately cease the practice of medicine and surgery in Ohio and immediately refer all active patients to other appropriate physicians.

This Order shall become effective immediately.



  
\_\_\_\_\_  
Carol L. Egner, M.D., Acting Secretary

December 10, 2008  
\_\_\_\_\_  
Date



# State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.  
Executive Director

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## EXCERPT FROM THE DRAFT MINUTES OF DECEMBER 10, 2008

### GREGORY GENE JOHNSON, M.D. ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

At this time the Board read and considered the proposed Order of Summary Suspension and Notice of Opportunity For Hearing in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

**DR. STEINBERGH MOVED TO ENTER AN ORDER OF SUMMARY SUSPENSION IN THE MATTER OF GREGORY GENE JOHNSON, M.D., IN ACCORDANCE WITH SECTION 4731.22(G), OHIO REVISED CODE, AND TO ISSUE THE NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:**

**ROLL CALL:**

Mr. Albert	- abstain
Dr. Egner	- abstain
Dr. Talmage	- abstain
Dr. Suppan	- aye
Dr. Madia	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Varyani	- aye

The motion carried.



# State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.  
Executive Director

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## NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

December 10, 2008

Case number: 08-CRF-140

Gregory Gene Johnson, M.D.  
26566 West River Rd.  
Perrysburg, OH 43551

Dear Doctor Johnson:

The Acting Secretary and the Supervising Member of the State Medical Board of Ohio [Board] have determined that there is clear and convincing evidence that you have violated Section 4731.22(B)(26), Ohio Revised Code, and have further determined that your continued practice presents a danger of immediate and serious harm to the public, as set forth in paragraphs (1) through (3), below.

Therefore, pursuant to Section 4731.22(G), Ohio Revised Code, and upon recommendation of Carol L. Egner, M.D., Acting Secretary, and Raymond J. Albert, Supervising Member, you are hereby notified that, as set forth in the attached Entry of Order, your certificate to practice medicine and surgery in the State of Ohio is summarily suspended. Accordingly, at this time, you are no longer authorized to practice medicine and surgery in Ohio.

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

- (1) By letter dated October 31, 2008, the Board notified you of its determination that it had reason to believe that you are in violation of Sections 4731.22(B)(19) and/or (B)(26), Ohio Revised Code, and ordered you to undergo a 72-hour inpatient examination to determine if you are in violation of Sections 4731.22(B)(19) and/or

(B)(26), Ohio Revised Code. The Board's determination was based upon one or more of the reasons outlined in such letter, which included:

- (a) On or about October 3, 2008, in an office conference with representatives of the Board, you reported that you had a problem with alcohol consumption and that on or about March 26, 2008, you had an assessment and subsequently undertook outpatient treatment at a treatment provider not approved by this Board. You provided information indicating that you were diagnosed with alcohol dependence and depression.
  - (b) During the office conference, you reported that over the course of your career as an obstetrician / gynecologist, you had occasionally consumed alcohol at social events while on call but would only do so at the rate of one drink per hour and only when you did not have active labors. You further reported that after you were "let go" from an Ohio hospital as an ob/gyn in 2007, and had more time on your hands, you began to consume alcohol at an increased rate, and that at the height of your alcohol consumption you drank four to five drinks of vodka, your drink of choice, almost daily. In or about October 2007, at the request of your wife, you stopped drinking, but began secretly drinking again in or about February 2008 in response to your depression related to a lost job expectation. In or about March 2008, after discovering you were again drinking, your wife informed you that you needed to get help, and thereafter you entered outpatient treatment.
- (2) By letter dated December 2, 2008, from Richard N. Whitney, M.D., Medical Director of Shepherd Hill, a Board-approved treatment provider, the Board was notified that following the Board-ordered evaluation commencing on December 1, 2008, you were determined to be impaired in your ability to practice according to acceptable and prevailing standards of care and it was recommended that you complete treatment at a Board-approved treatment program. Dr. Whitney further opined that you admitted to the use of alcohol while in outpatient treatment and subsequently in September 2008.
  - (3) Although you entered treatment at a Board-approved treatment provider on or about December 4, 2008, the Board received notification that you left such treatment on or about December 7, 2008. Accordingly, you have not completed the recommended/required treatment and entered into an aftercare contract with a Board-approved treatment provider. In addition, the Board has not received information that you have been determined to be capable of practicing in accordance with acceptable and prevailing standards of care.

Section 4731.22(B)(26), Ohio Revised Code, provides that if the Board determines that an individual's ability to practice is impaired, the Board shall suspend the individual's certificate and shall require the individual, as a condition for continued, reinstated, or

renewed certification to practice, to submit to treatment and, before being eligible to apply for reinstatement, to demonstrate to the Board the ability to resume practice in compliance with acceptable and prevailing standards of care, including completing required treatment, providing evidence of compliance with an aftercare contract or written consent agreement, and providing written reports indicating that the individual's ability to practice has been assessed by individuals or providers approved by the Board and that the individual has been found capable of practicing according to acceptable and prevailing standards of care.

Further, Rule 4731-16-02(B)(3), Ohio Administrative Code, provides that if an examination discloses impairment, or if the Board has other reliable, substantial and probative evidence demonstrating impairment, the Board shall initiate proceedings to suspend the licensee, and may issue an order of summary suspension as provided in Section 4731.22(G), Ohio Revised Code.

Additionally, Rule 4731-16-02(B)(3), Ohio Administrative Code, further provides that an individual's relapse during or following treatment constitutes independent proof of impairment.

Your acts, conduct, and/or omissions as alleged in paragraph (1) through (3) 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, and Chapter 4731., Ohio Revised Code, you are hereby advised that you are entitled to a hearing concerning these matters. 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 days of the time of mailing of this notice.

You are further advised that, if you timely request a hearing, 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 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, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate

Notice of Summary Suspension  
& Opportunity for Hearing  
Gregory Gene Johnson, M.D.  
Page 4

an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Carol L. Egner, M.D.  
Acting Secretary

CLE/KHM/flb  
Enclosures

CERTIFIED MAIL #91 7108 2133 3934 3683 8501  
RETURN RECEIPT REQUESTED

cc: Robert D. Noble, Esq.  
Matan, Wright & Noble  
261 South Front Street  
Columbus, Ohio 43215  
Attorney for Gregory Gene Johnson, M.D.

CERTIFIED MAIL #91 7108 2133 3934 3487 0510  
RETURN RECEIPT REQUESTED

Duplicate copy:

Gregory Gene Johnson, M.D.  
26566 West River Rd.  
Perrysburg, OH 43551

HAND DELIVERY