



# State Medical Board of Ohio

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January 14, 2004

Timothy A. Gooden, M.D.  
9901 Tanbark Trail  
Concord, OH 44060

Dear Doctor Gooden:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 14, 2004, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal 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 a Notice of Appeal with the State Medical Board of Ohio and 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

Lance A. Talmage, M.D.  
Secretary

LAT:jam  
Enclosures

CERTIFIED MAIL NO. 7000 0600 0024 5150 0125  
RETURN RECEIPT REQUESTED

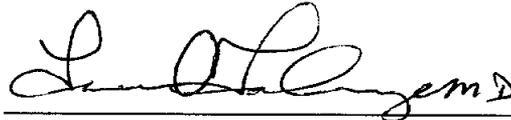
Cc: Barry T. Doyle, Esq.  
CERTIFIED MAIL NO. 7000 0600 0024 5150 0132  
RETURN RECEIPT REQUESTED

*Mailed 2-3-04*

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 14, 2004, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and Timothy A. Gooden, M.D., as it appears in the Journal of the State Medical Board of Ohio.

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



\_\_\_\_\_  
Lance A. Talmage, M.D.  
Secretary

(SEAL)

\_\_\_\_\_  
January 14, 2004  
Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF

\*

\*

TIMOTHY A. GOODEN, M.D.

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ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on January 14, 2004.

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

It is hereby ORDERED that:

1. **SUSPENSION:** The certificate of Timothy A. Gooden, M.D., to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for twelve months.
2. **COMPLIANCE WITH THE FEBRUARY 10, 2002, STEP II CONSENT AGREEMENT:** Dr. Gooden shall continue to abide by the terms of his February 10, 2002, Step II Consent Agreement with the Board.

**EFFECTIVE DATE OF ORDER:** This Order shall become effective within thirty days of mailing of notification of approval by the Board.

(SEAL)



Lance A. Talmage, M.D.  
Secretary

January 14, 2004  
Date

2003 NOV 20 P 3 34

**REPORT AND RECOMMENDATION  
IN THE MATTER OF TIMOTHY A. GOODEN, M.D.**

The Matter of Timothy A. Gooden, M.D., was heard by Sharon W. Murphy, Hearing Examiner for the State Medical Board of Ohio, on September 23, 2003.

**INTRODUCTION**

**I. Basis for Hearing**

- A. By letter dated May 14, 2003, the State Medical Board of Ohio [Board] notified Timothy A. Gooden, M.D., that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board's proposed action was based on allegations that Dr. Gooden had engaged in sexual conduct with the mother of pediatric Patients 1 and 2. The Board further alleged that Dr. Gooden's conduct constitutes "[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established,' as that clause is used in Section 4731.22(B)(6), Ohio Revised Code [; and] '[v]iolation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule,' as that clause is used in Section 4731.22(B)(18), Ohio Revised Code, to wit: Principles I and IV of the American Medical Association's Principles of Medical Ethics. Accordingly, the Board advised Dr. Gooden of his right to request a hearing in this matter. (State's Exhibit 3A)
- B. On June 10, 2003, Dr. Gooden submitted a written hearing request. (State's Exhibit 3C)

**II. Appearances**

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Rebecca J. Albers, Assistant Attorney General.
- B. On behalf of the Respondent: Barry T. Doyle, Esq.

## EVIDENCE EXAMINED

### I. Testimony Heard

#### A. Presented by the State:

1. Timothy A. Gooden, M.D., as if on cross-examination.
2. Charles Felzen Johnson, M.D.

#### B. Presented by the Respondent:

Timothy A. Gooden, M.D.

### II. Exhibits Examined

#### A. Presented by the State:

- \* 1. State's Exhibits 1 and 2: Copies of medical records for Patients 1 and 2.
2. State's Exhibits 3A, 3C-1L: Procedural exhibits.
- \* 3. State's Exhibit 3B: Confidential patient key.
- \* 4. State's Exhibit 4: Expert report of Charles Felzen Johnson, M.D. (Note: By agreement of the parties, corrections were made by the Hearing Examiner, post-hearing. See the Hearing Transcript at 70-71)
5. State's Exhibit 5: Excerpt from the American Medical Association's Code of Medical Ethics, 2000-2001 Edition.
6. State's Exhibit 6: Copies of Dr. Gooden's Step I and Step II Consent Agreements with the Board.
7. State's Exhibit 7: Curriculum vitae of Charles Felzen Johnson, M.D.

#### B. Presented by the Respondent:

Respondent's Exhibits 1-7: Copies of letters written in support of Dr. Gooden.

\* Note: Exhibits marked with an asterisk [\*] have been sealed to protect patient confidentiality.

### SUMMARY OF THE 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.

1. Timothy A. Gooden, M.D., received a medical degree in 1981 from the Ohio State University School of Medicine. Dr. Gooden completed a pediatric internship and residency at Rainbow Babies and Childrens Hospital, a subsidiary of University Hospitals of Cleveland, in Cleveland, Ohio. Thereafter, he completed a one-year fellowship in neonatal medicine at Cleveland Metropolitan General Hospital. Dr. Gooden practiced general pediatric medicine for sixteen years. He terminated his practice in August 2001. (Hearing Transcript [Tr.] 11-12)

Dr. Gooden is currently in his second year of an addiction medicine fellowship through the Department of Psychiatry at University Hospitals of Cleveland. (Tr. 12)

Dr. Gooden is not licensed in any state other than Ohio. (Tr. 12)

2. In July 1996, Dr. Gooden undertook the care of Patient 1; Patient 1 was five days old at that time. Moreover, Dr. Gooden undertook the care of Patient 2 upon his birth in December 1999. Patient 1 and Patient 2 were siblings. (Tr. 15, 2; State's Exhibits [St. Exs.] 1 and 2)

In approximately May 2000, Dr. Gooden entered into a sexual relationship with the mother of Patients 1 and 2. The sexual activity took place during the time that Dr. Gooden was treating Patients 1 and 2. Both Dr. Gooden and the mother of Patients 1 and 2 were married to other people at that time. In addition, Dr. Gooden was suffering from untreated alcoholism. (Tr. 16, 26-27)

Dr. Gooden engaged in sexual conduct with the mother of Patients 1 and 2 at various locations, including in her car, at her residence, and in local parks. (Tr. 16)

Dr. Gooden's sexual conduct with the mother of Patients 1 and 2 resulted in the transmission of genital herpes, a sexually transmitted disease, to the mother and her spouse. (Tr. 16-19, 44-45)

Dr. Gooden testified that the sexual relationship was mutually terminated in late March 2001. (Tr. 20)

3. In April 2001, Dr. Gooden entered inpatient treatment for alcoholism at the Cleveland Clinic Foundation. (Tr. 21)
4. After completing inpatient treatment, Dr. Gooden returned to the practice of pediatric medicine. One week after returning to practice, the husband of the mother of Patients 1 and 2

contacted Dr. Gooden's employer and advised the employer of Dr. Gooden's involvement with his wife. Dr. Gooden admitted that the allegations made by the husband were true, and Dr. Gooden was terminated from his position. (Tr. 21-22)

5. On August 8, 2001, Dr. Gooden entered into a Step I Consent Agreement with the Board. In the Step I Consent Agreement, Dr. Gooden agreed to a suspension of his license to practice medicine and surgery in this state. The suspension was based on Dr. Gooden's impairment due to chemical dependency on alcohol, his conviction for Driving Under the Influence of Alcohol/Drugs, and his false answer to a question related to his criminal conviction on a renewal application. Terms were imposed for the reinstatement of Dr. Gooden's license to practice. (Tr. 21; St. Ex. 6)

On February 10, 2002, Dr. Gooden entered into a Step II Consent Agreement with the Board. In the Step II Consent Agreement, Dr. Gooden's license was reinstated. Moreover, probationary terms and conditions were imposed, for a period of not less than five years. (St. Ex. 6) After reinstatement of his license, Dr. Gooden did not return to the practice of pediatric medicine. Instead, he worked toward entering an addiction medicine fellowship. (Tr. 13-14)

6. Charles Felzen Johnson, M.D., testified at hearing on behalf of the State. Dr. Johnson testified that he had earned his medical degree in 1971 from the UCLA Medical School. In 1964, he completed a pediatric residency at Childrens Hospital in Los Angeles. After serving in the military for three years, Dr. Johnson served as an assistant professor of pediatrics at the University of Iowa. He later served as the dean of a medical school in Tennessee. In 1981, Dr. Johnson relocated to Columbus, Ohio, and accepted a position as the Medical Director of the Child Abuse Program at Childrens Hospital and as a Professor of Pediatrics at the Ohio State University School of Medicine. Dr. Johnson testified that he had relinquished his position as Medical Director in February 2003, in order to spend more time seeing patients, doing research, and teaching. Dr. Johnson testified that he is board certified in pediatrics. (Tr. 47-48; St. Ex. 7)

Dr. Johnson testified that Dr. Gooden's conduct with the mother of Patients 1 and 2 violated Principles I and IV of the American Medical Association's Principles of Medical Ethics. (Tr. 51-53, 55-56) Principles I and IV of the American Medical Association's Principles of Medical Ethics provide as follows:

- I. A physician shall be dedicated to providing competent medical service with compassion and respect for human dignity and rights.
- IV. A physician shall respect the rights of patients, and other health professionals, and shall safeguard patient confidences and privacy within the constraints of the law.

(St. Ex. 5)

In explaining the basis for his opinion, Dr. Johnson testified that the relationship between a pediatrician and the parents of pediatric patients is unique, in that the parent is the principle decision-maker for the patient. Therefore, the pediatrician deals with the patient through an intermediary, as the physician cannot treat the child without going through the parent. Accordingly, it is extremely important that the pediatrician maintain an objective, professional relationship with the child's parent. Finally, Dr. Johnson testified that when the pediatrician enters into a sexual relationship with the parent of the child patient, it may adversely affect the care the child receives. (Tr. 55-57)

Dr. Johnson concluded that when a pediatrician enters into a sexual relationship with the parent of a pediatric patient, it is a violation of the standards of care. (Tr. 60)

7. At hearing, Dr. Gooden acknowledged that his conduct with the mother of Patients 1 and 2 was not ethical. He further acknowledged that there is no justification for his actions. He added that he is truly remorseful, and accepts full responsibility for his conduct. (Tr. 22, 28, 41)

Dr. Gooden testified that, at the time of his misconduct with the mother of Patients 1 and 2, his alcoholism had been at its peak. Dr. Gooden testified that this fact does not excuse his conduct, but provides perspective regarding his overall life at that time. (Tr. 27)

8. Dr. Gooden explained that his date of sobriety is April 13, 2001, and that his life has changed significantly since that time. He stated that his life had been controlled by his alcoholism and sexually addicted behavior, and that he had not seen a way to make his life better until he entered the Cleveland Clinic Foundation for treatment. (Tr. 28, 34)

Dr. Gooden testified that, currently, he is very active in Alcoholics Anonymous [AA]. He explained that he attends three AA meetings, one Sex and Love Addicts Anonymous [SLAA] meeting, and one Caduceus meeting per week. He has served as secretary of his groups, and sponsors three other members. He is also involved in International Doctors in AA.

Dr. Gooden concluded that AA has been "a gift." (Tr. 29-30, 36)

9. Dr. Gooden testified that his goal is to pursue a career in addiction medicine, focusing on professionals with chemical dependency and boundary issues. Dr. Gooden testified that he has learned a lot from his experiences, and hopes to share what he has learned with others. (Tr. at 32-33)
10. By letter dated September 23, 2003, Edward J. Poczekaj, M.Ed., CCDC III-E, CEAP, Director of Field Services of the Ohio Physicians Effectiveness Program [OPEP], advised that Dr. Gooden had been in full compliance with his OPEP contract since it was signed in June 2001. Mr. Poczekaj further advised that Dr. Gooden has been in treatment for both

substance abuse and boundaries violations, and that Dr. Gooden has responded well to therapy. (Resp. Ex. 7)

11. By letter dated September 11, 2003, Joseph W. Janesz, Ph.D., PCC, CCDC III-E, CRC, and Gregory B. Collins, M.D., of the Department of Psychiatry and Psychology, Alcohol & Drug Recovery Center, at the Cleveland Clinic Foundation, advised that Dr. Gooden had made “excellent strides” in his recovery and had been fully compliant with all treatment recommendations. (Respondent’s Exhibit [Resp. Ex.] 1)
12. By letter dated September 12, 2003, Christina M. Delos Reyes, M.D., Co-Director, Addiction Medicine/Addiction Psychiatry Fellowship, at University Hospitals of Cleveland, advised that Dr. Gooden had been a fellow in good standing in that program since July 2002. Dr. Reyes stated, in part, as follows:

Dr. Gooden has been a valuable and well-respected member of the treatment team during all of his clinical rotations. He has an excellent rapport with patients, is readily available and accessible to nursing and administrative staff, and is well-liked by his peers. \* \* \* During his time in this Fellowship, Dr. Gooden has adhered to the highest standards of professional and ethical conduct. There have been no incidents that would cause concern about his behavior—in fact, all reports have been positive. On a personal level, I am always struck by Dr. Gooden’s level of empathy and his willingness to learn. \* \* \* In summary, Dr. Gooden is an excellent physician and will be a wonderful addition and asset to the field of addiction medicine.

(Resp. Ex. 2)

13. By letter dated September 14, 2003, Ted Parran, M.D., Co-Director of the Addiction Medicine/Addiction Psychiatry Fellowship, at University Hospitals of Cleveland, advised, in part, as follows:

At this point I consider Dr. Gooden to be the most highly trained pediatrician in the treatment of Addictive disorders in the State of Ohio. He has demonstrated consistently excellent attention to issues of professionalism and professional ethics and has demonstrated very appropriate boundaries at all times. He has been exceedingly effective working clinically in the area of Chemical Dependence Treatment – a clinical area that is not uncommonly fraught with professional boundary issues and challenges.

(Resp. Ex. 3)

14. By letter dated September 11, 2003, Robert J. Ronis, M.D., M.P.H., L. Douglas Lenkoski Professor of Psychiatry, and Vice Chair for Education, Department of Psychiatry, University

Hospitals of Cleveland, advised that he had been the co-director of the Addiction Fellowship at the University Hospitals of Cleveland and had made the decision to hire Dr. Gooden as a fellow. Dr. Ronis stated that Dr. Gooden is a “serious, soft-spoken, conscientious and dedicated young physician who has maintained the highest ethical and professional standards while working in [the] program.” Dr. Ronis further stated that he had the greatest confidence in Dr. Gooden and would be pleased to consider him a colleague. (Resp. Ex. 4)

15. Dr. Gooden submitted additional letters of support from his AA sponsor and from a co-member of his SLAA group. (Resp. Exs. 5, 6)
16. Dr. Gooden concluded his testimony with the following statement to the Board:

I would like to take the opportunity to let the [Board] know that \* \* \* I’m truly sorry and truly remorseful for what has happened. And I do accept full responsibility for what happened, for the consequence of what I’ve done.

\* \* \* And I sincerely believe that this whole process is an opportunity for me to in some small way make restitution for the harm that I have done. And, you know, I am totally at peace with the notion that the Board’s \* \* \* judgment is appropriate, and that I will accept whatever comes along as – as very appropriate for my actions.

(Tr. 41)

### **FINDINGS OF FACT**

From in or about March 2000 to in or about March 2001, Dr. Gooden engaged in sexual activity, including sexual intercourse, with the mother of pediatric Patients 1 and 2. Dr. Gooden engaged in such sexual conduct with the mother of pediatric Patients 1 and 2 at various locations, including in her car, at her residence, and in local parks. Furthermore, Dr. Gooden’s sexual conduct with the mother resulted in the transmission of venereal disease to the mother and her spouse.

### **CONCLUSIONS OF LAW**

1. The conduct of Timothy A. Gooden, M.D., as set forth in the Findings of Fact, constitutes “[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established,” as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.
2. The conduct of Dr. Gooden, as set forth in the Findings of Fact, constitutes “[v]iolation of any provision of a code of ethics of the American medical association, the American osteopathic

association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule," as that clause is used in Section 4731.22(B)(18), Ohio Revised Code, to wit: Principles I and IV of the American Medical Association's Principles of Medical Ethics.

\* \* \* \* \*

Dr. Gooden committed serious transgressions when he entered into a sexual relationship with the mother of his pediatric patients. Dr. Gooden's conduct was even more objectionable because his sexual conduct caused the transmission of a sexually transmitted disease to the mother and her spouse. Accordingly, the Board would be justified in permanently revoking Dr. Gooden's certificate to practice medicine and surgery in this state.

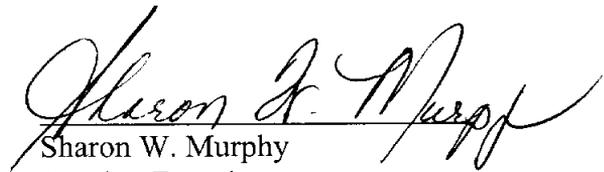
Nevertheless, Dr. Gooden presented mitigating evidence. Dr. Gooden has expressed what appears to be sincere remorse for his behavior, and accepts full responsibility for his conduct. Moreover, Dr. Gooden's conduct occurred during the height of his alcoholism. Since that time he has been engaged in an active recovery program for both alcoholism and sexually addictive behavior. Furthermore, there is substantial evidence that Dr. Gooden is in full compliance with his recovery program. Finally, it is unlikely that he will repeat such conduct at any time in the future.

### **PROPOSED ORDER**

It is hereby ORDERED that:

1. **SUSPENSION:** The certificate of Timothy A. Gooden, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for 180 days.
2. **COMPLIANCE WITH THE FEBRUARY 10, 2002, STEP II CONSENT AGREEMENT:** Dr. Gooden shall continue to abide by the terms of his February 10, 2002, Step II Consent Agreement with the Board.

**EFFECTIVE DATE OF ORDER:** This Order shall become effective within thirty days of mailing of notification of approval by the Board.

  
Sharon W. Murphy  
Hearing Examiner



# State Medical Board of Ohio

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## EXCERPT FROM THE DRAFT MINUTES OF JANUARY 14, 2004

### REPORTS AND RECOMMENDATIONS

Ms. Sloan announced that the Board would now consider the findings and orders appearing on the Board's agenda. She asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and order, and any objections filed in the matters of: Mark L. Allen, M.D.; Glenda M. Dahlquist, M.D.; Joseph W. Fischkelta, P.A.; Timothy A. Gooden, M.D.; Richard W. Liss, M.D.; Larry John Little, M.D.; and Geoffrey D. Snyder, M.D. A roll call was taken:

#### ROLL CALL:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Davidson	- aye
Dr. Robbins	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye
Ms. Sloan	- aye

Ms. Sloan 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. Talmage	- aye
Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Davidson	- aye

Dr. Robbins - aye  
Dr. Garg - aye  
Dr. Steinbergh - aye  
Ms. Sloan - aye

Ms. Sloan 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.

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

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

.....  
TIMOTHY A. GOODEN, M.D.

Ms. Sloan directed the Board's attention to the matter of Timothy A. Gooden, M.D. She advised that no objections were filed to Hearing Examiner Murphy's Report and Recommendation.

Ms. Sloan continued that a request to address the Board has been timely filed by Dr. Gooden. Five minutes would be allowed for that address.

Dr. Gooden stated that he would like to thank Ms. Albers and Ms. Murphy for demonstrating such compassionate kindness and fairness throughout the hearing process. He's chosen this opportunity to address the full Board to express his deep remorse for the events that led to him being here and to make amends for any harm done to all involved parties. He advised that, as part of his recovery program in A.A., step 8 suggests that he make a list of those he has harmed and become willing to make amends to them all. Step 9 suggests that he make those amends directly, whenever possible, except when to do so may cause further harm. Dr. Gooden stated that he believes that this is such an opportunity. Amends, as defined in A.A., is not an apology, but it is being willing to do whatever it takes to right a wrong and to clean up his side of the street, so to speak. He would ask the individual to whom he is making amends what he can do to make this right. His program of recovery then requires that he be willing to do those things.

Dr. Gooden stated that current circumstances make direct amends to the injured parties neither practical nor necessarily desirable. He believes that by his full acceptance of the Board's final decision in this matter, he will have taken a large step in fulfilling those indirect amends. Dr. Gooden asked the Board to consider how he could best serve to make this situation right. He asked that the Board consider his record of recovery, both in A.A. and in the Board's monitoring program, as demonstrating a sincere commitment

to sobriety, spiritual growth and personal change. He asked the Board to consider his a sincere desire to walk the walk, to live by the Golden Rule, and to demonstrate a genuine respect for all of humanity.

Dr. Gooden asked the Board to consider his exemplary work in his chosen field of addiction medicine, a choice that was fueled by a spiritual commitment to help others to learn to walk the walk, to live by the Golden Rule and to discover the joy of a life of sobriety. Dr. Gooden asked the Board to consider the opportunity he currently has to work directly in the field of physician recovery alongside individuals who are highly regarded in the field of physician recovery. He asked the Board to consider his work in the recovering physician community and to consider that he may better serve righting this situation by working tirelessly to prevent other healthcare professionals from crossing boundaries, sharing his experience to prevent further harm through this insidious, yet pervasive, problem they face.

Dr. Gooden stated that he would like to share that this process for him has led to the loss of a marriage, pending bankruptcy and, perhaps, long-term unemployment.

Dr. Gooden asked that the Board consider that amends for harm done in this situation may be better served by providing the opportunity for him to continue to do the work he has committed his life to doing by not taking away the privilege of practicing medicine in this state. He stated that he offers himself in volunteer community service at the Board's discretion in an effort to right this situation, but he feels that it is necessary to maintain an active license to do so.

Ms. Sloan asked whether the Assistant Attorney General wished to respond.

Ms. Albers stated that it is important for the Board to remember that Dr. Gooden took advantage of the mother of pediatric patients in order to enter into a sexual relationship with her. What makes this case even more egregious is that a sexually transmitted disease (STD) was passed on to this family. While Dr. Gooden has said that he accepts responsibility for that, she doesn't know that he has, based upon his testimony today where he's asking to do community service rather than having his license suspended. This conduct was egregious and she believes that a six-month suspension is not enough to address how serious this conduct was. She reminded the Board that a few months ago it suspended the license of another physician for six months who had been in a relationship with a patient. That physician had not, however, passed on an STD.

Ms. Albers stated that, although the Hearing Examiner addresses as mitigation that this conduct occurred during the height of Dr. Gooden's alcoholism, she doesn't know if the disease model of alcoholism excuses that kind of behavior. She asked that the Board consider a longer suspension in this case.

**DR. KUMAR MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF TIMOTHY A. GOODEN, M.D. DR. ROBBINS SECONDED THE MOTION.**

Ms. Sloan stated that she would now entertain discussion in the above matter.

Dr. Kumar stated that it is quite obvious that the actions of this physician were outrageous. Taking advantage of the mother of two small pediatric patients is absolutely unacceptable. From what he's heard from Dr. Gooden, he does seem to accept his actions.

Dr. Kumar stated that he was most impressed with the fact that Dr. Gooden has gone into addictionology training and is doing a residency. In reviewing the letters and recommendations from the program, they have been really glowing. Dr. Kumar stated that it would be prudent for the Board to allow Dr. Gooden a chance to complete his residency program. He added that he has been searching for a way that would allow the suspension, but also allow Dr. Gooden to continue his residency. His inquiries tell him that if someone has a full certificate, the Board cannot give him a training certificate, so he's tried to modify the order.

**DR. KUMAR MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF TIMOTHY A. GOODEN, M.D., BY SUBSTITUTING THE FOLLOWING FOR PARAGRAPH 1:**

SUSPENSION: The certificate of Timothy A. Gooden, M.D., to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for 180 days. Such suspension shall be stayed, subject to the **LIMITATION** that Dr. Gooden's practice during the 180-day period shall be restricted to activities within the scope of his clinical fellowship program in Addiction Medicine/Addiction Psychiatry at University Hospitals of Cleveland. Dr. Gooden shall practice only under the supervision of the physicians responsible for supervision as part of the clinical fellowship program.

**ALL OTHER PROVISIONS OF THE PROPOSED ORDER SHALL REMAIN UNCHANGED.**  
The motion died for lack of a second.

Dr. Egner stated that she has two problems with this physician. No doubt he is remorseful and he presented himself well today and at the time of the hearing. The transmission of an STD does not affect how she feels about this case. She doesn't feel that Dr. Gooden should be punished more or less for that because having sex in 2004 runs the risk of contracting an STD. She does feel very strongly that Dr. Gooden is an addicted physician. He is impaired in two ways: with his addiction to alcohol and with his addiction to sex. This Proposed Order does not reflect his sexual addiction, nor does she feel that enough has been done to really address that. The 180-day suspension doesn't even begin to address how long he should be suspended. She thinks he should be out of practice for 18 months. He should demonstrate that both of his problems are being addressed. This is a serious consequence, but Dr. Gooden committed serious actions. Dr. Gooden took advantage of his patients' mother. He had to know at the time that that was wrong and that this was sexually addicted behavior.

**DR. EGNER MOVED TO AMEND THE PROPOSED SUSPENSION PERIOD TO EIGHTEEN MONTHS. DR. BHATI SECONDED THE MOTION.**

Dr. Kumar asked Dr. Egner whether she would allow him to finish his residency program.

Dr. Egner stated that she would absolutely not. She added that she wouldn't even consider it.

Dr. Bhati stated that Dr. Gooden has made a serious, serious mistake in becoming sexually involved with the mother of two patients. The Board's tolerance in this type of case is zero. He added that he's even surprised that the Proposed Order is only for 180 days' suspension. At times the Board has taken the license permanently in these types of cases.

Dr. Steinbergh stated that this is a chemically dependent physician who had a sexual affair. She agrees that transmission of the STD does not affect her thoughts in this. The Board cited Dr. Gooden for sexual misconduct within practice and a code of ethics violation. She questions the concept of a sexual addiction. She can't support that thought, unless it is supported by the record.

Dr. Egner stated that she believes that Dr. Gooden admits to that in the record. He indicates that he is active in A.A. and attends three A.A. meetings and one Sex and Love Addicts Anonymous meeting and one Caduceus meeting per week.

Dr. Steinbergh stated that she just has problems with making her decision on that when there were no allegations against him on that basis in the citation letter.

Dr. Egner stated that Dr. Gooden was charged with sexual misconduct within practice.

Dr. Steinbergh stated that she agrees with that, but her concept is one of a sexual affair. She agrees that he did have sexual misconduct within his practice. The concept of sexual addiction is different to her. The Board doesn't have numerous cases, as it has in the past, where there have been large numbers of patients affected. She does agree that a 180-day suspension is weak. She's certainly sensitive to what Dr. Gooden's personal needs are now with regard to education, but Dr. Gooden will have to pay the price for his misconduct prior to further education.

Ms. Sloan stated that Dr. Gooden was charged with a violation of ethics and minimal standards. The Board already sanctioned him for his impairment and his sexual addiction through consent agreements. The Board needs to look for an appropriate Order for the violations of ethics of sexual misconduct in practice.

Dr. Egner stated that the minimum penalty in the Board's guidelines for that is a one-year suspension.

**DR. EGNER MOVED TO AMEND HER MOTION TO REQUIRE A ONE-YEAR SUSPENSION RATHER THAN 18 MONTHS. DR. BHATI, AS SECOND, AGREED TO THE AMENDMENT.**

Dr. Buchan stated that he personally leans toward revocation in this case. He finds Dr. Gooden's actions out of bounds and intolerable. The Board has been on record as saying that impairment never excuses action. Looking at just the action, a minimum of one-year suspension is appropriate. If that is the

amendment, he'll go along with it, but he thinks it is light. He's impressed that Dr. Gooden is doing the work that is necessary, but this case bothered him.

Dr. Robbins stated that the STD did bother him quite a bit because Dr. Gooden is a physician. There's nothing in the record to indicate that Dr. Gooden insisted on safe sex, and if anyone should be leading the charge for safe sex, it should be a physician. In that regard, he found this case more egregious.

Dr. Steinbergh stated that if the Board believes, as it has for numerous chemically dependent physicians, that their judgment becomes impaired, and the Board accepts the fact that it happened at the height of his impairment, she could clearly see an impairment of his judgment. She does not in any way condone what Dr. Gooden did. What Dr. Gooden did was absolutely wrong, and a physician should know, and ought to use, safe sex methods. However, the Board also knows that STDs can be spread no matter what precautions are taken. She looks upon this as impaired judgment. The Board has seen physicians with felony convictions against them during their impairment, and the Board has put them into a consent agreement. Dr. Gooden is already in a consent agreement and is following the terms of that agreement. But Dr. Gooden made the mistake of sexual misconduct in practice, and she agrees with the one-year suspension.

Dr. Davidson agreed with Dr. Steinbergh, adding that time and again the Board has seen egregious actions in the height of addiction. That doesn't excuse the actions, it's just a fact. Dr. Gooden had a six-month suspension, it appears, and he's done very well in his recovery. It seems that he's been a model probationer in that regard. Dr. Davidson stated that she wonders what the Board would have done had it known about the sexual misconduct in practice at the time it entered into the consent agreement. The Board sees probationer after probationer who kind of minimizes and who's kind of a workaholic and who tries to sweep it under the rug, but she doesn't believe that that's Dr. Gooden. Dr. Gooden has had a truly life-changing experience, and hopefully he's set his life on the road to permanent recovery. Dr. Davidson stated that she doesn't like seeing the Board go outside the Disciplinary Guidelines, as is being recommended in the Proposed Order, but she tends to agree with it. Giving these circumstances and the timing, a six-month suspension is appropriate. She would not agree to his returning to his residency, as much as this would upset his career and his life path, if for no other reason than the message it sends to everybody else with whom he's training.

A vote was taken on Dr. Egner's motion to amend:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- abstain
	Mr. Browning	- aye
	Dr. Davidson	- nay

Dr. Robbins	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye

The motion carried.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF TIMOTHY A. GOODEN, M.D. DR. ROBBINS SECONDED THE MOTION. A vote was taken:**

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- abstain
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.



# State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: [www.state.oh.us/med/](http://www.state.oh.us/med/)

May 14, 2003

Timothy A. Gooden, M.D.  
9901 Tanbark Trail  
Concord, Ohio 44060

Dear Doctor Gooden:

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

- (1) In the routine course of your practice, you undertook the treatment of pediatric Patients 1 and 2. Pediatric Patients 1 and 2, and the mother of pediatric Patients 1 and 2 are identified on the attached Patient Key, which is confidential and to be withheld from public disclosure.
- (2) From in or about March 2000 to in or about March 2001, you engaged in sexual activity, including sexual conduct, with the mother of pediatric Patients 1 and 2. You engaged in such sexual conduct with the mother at various locations, including hugging and kissing in your office, and sexual conduct at your residence, in a park, and/or a high school parking lot. Furthermore, your sexual conduct with the mother resulted in the transmission of venereal disease in both the mother and her spouse.

Your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute “[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established,” as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute “[v]iolation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule,” as that clause is used in Section 4731.22(B)(18), Ohio Revised Code, to wit: Principles I and IV of the American Medical Association’s Principles of Medical Ethics.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made

*Mailed 5/15/03*

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 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 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,



Anand G. Garg, M.D.  
Secretary

AGG/blt  
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5148 1271  
RETURN RECEIPT REQUESTED

cc: John R. Irwin, M.D., Co., L.P.A.  
3690 Orange Place, Suite 510  
Cleveland, OH 44122

CERTIFIED MAIL # 7000 0600 0024 5148 1233  
RETURN RECEIPT REQUESTED

**STEP II  
CONSENT AGREEMENT  
BETWEEN  
TIMOTHY A. GOODEN, M.D.  
AND  
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Gooden 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, Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for violations of Section 4731.22(A), Ohio Revised Code, "fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board;" Section 4731.22(B)(5), Ohio Revised Code, "[m]aking a false, fraudulent, deceptive, or misleading statement . . . in securing or attempting to secure any certificate to practice or certificate of registration issued by the board;" and/or Section 4731.22(B)(26), Ohio Revised Code, "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(A), (B)(5), and (B)(26), Ohio Revised Code, as set forth in Paragraphs E, F, G and H of the August 8, 2001 Step I Consent Agreement between Timothy A Gooden, M.D., and The State Medical Board of Ohio, a copy of which is attached hereto and fully incorporated herein; 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. Such express reservation includes, but is not limited to, the right to institute formal proceedings based upon any

violations related to minimal standards of care, ethics, or criminal acts regardless of whether the acts underlying such additional violations are related to issues currently within the Board's knowledge or are related in any way to the violation of Section 4731.22(B)(26), Ohio Revised Code, as set forth in the August 2001 Step I Consent Agreement or below.

- C. Dr. Gooden is applying for reinstatement of his license to practice medicine and surgery in the State of Ohio, which was suspended pursuant to the terms of the above-referenced August 2001 Step I Consent Agreement.
- D. Dr. Gooden states that he is not licensed to practice medicine and surgery in any other state or jurisdiction.
- E. Dr. Gooden admits that he entered treatment for alcohol addiction at the Cleveland Clinic Foundation, a Board approved treatment provider in Cleveland, Ohio, on or about April 23, 2001, and states that upon completion of his twenty-eight day residential program on or about May 22, 2001, he remained in the intensive outpatient program through on or about June 13, 2001.
- F. Dr. Gooden states and the Board acknowledges receipt of information to support that since being discharged from the Cleveland Clinic Foundation on or about May 22, 2001, he has remained compliant with his treatment/recovery contract with his treatment provider, the Cleveland Clinic Foundation. In addition, Dr. Gooden states and the Board acknowledges receipt of information to support that he has remained fully compliant with terms of the advocacy contract into which he entered with the Ohio Physicians Effectiveness Program on or about June 14, 2001. Dr. Gooden further admits that such treatment/recovery and advocacy contracts remain in effect to date.
- G. Dr. Gooden states and the Board acknowledges that Chris Adelman, M.D., of Rosary Hall Chemical Dependency Center, St. Vincent Charity Hospital and Health Center, a Board approved treatment provider in Cleveland, Ohio, and Gregory Collins, M.D., of The Cleveland Clinic Foundation, a Board approved treatment provider in Cleveland, Ohio, have provided written reports indicating that Dr. Gooden's ability to practice has been assessed and that he has been found capable of practicing medicine and surgery according to acceptable and prevailing standards of care, so long as certain treatment and monitoring requirements are in place.
- H. Dr. Gooden states and the Board acknowledges that Dr. Gooden 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 August 2001 Step I Consent Agreement between Dr. Gooden and the Board.

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

1. Dr. Gooden shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
2. Dr. Gooden 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 August 2001 Step I Consent Agreement with the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. Dr. Gooden 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 August 2001 Step I Consent Agreement with the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
4. In the event that Dr. Gooden should leave Ohio for three continuous months, or reside or practice outside the State, Dr. Gooden must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this period under this Consent Agreement, unless otherwise determined by motion of the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.
5. In the event Dr. Gooden 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**

6. Dr. Gooden shall keep a log of all controlled substances prescribed. Such log shall be submitted, in the format approved by the Board, thirty days prior to Dr. Gooden's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Gooden shall make his patient records with regard to such prescribing available for review by an agent of the Board upon request.
7. Dr. Gooden shall not, without prior Board approval, administer, personally furnish, or possess (except as allowed under Paragraph 8 below) any controlled substances as defined by state or federal law. In the event that the Board agrees at a future date to modify this Consent Agreement to allow Dr. Gooden to administer or personally furnish controlled substances, Dr. Gooden shall keep a log of all controlled substances prescribed, administered or personally furnished. Such log shall be submitted in the format approved by the Board thirty days prior to Dr. Gooden's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Gooden shall make his patient records with regard to such prescribing, administering, or personally furnishing available for review by an agent of the Board upon request.

### **Sobriety**

8. Dr. Gooden 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. Gooden's history of chemical dependency.
9. Dr. Gooden shall abstain completely from the use of alcohol.

### **Drug and Alcohol Screens/Supervising Physician**

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

Within thirty days of the effective date of this Consent Agreement, Dr. Gooden shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Dr. Gooden shall submit the required urine specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Gooden.

Dr. Gooden and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

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

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

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

11. The Board retains the right to require, and Dr. Gooden agrees to submit, blood or urine specimens for analysis at Dr. Gooden's expense upon the Board's request and without prior notice. Dr. Gooden's refusal to submit a blood or urine specimen upon request of the Board shall result in a minimum of one year of actual license suspension.

### **Monitoring Physician**

12. Before engaging in any medical practice, Dr. Gooden shall submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board and, unless that physician has previously been approved to serve as a monitoring physician, for prior approval by the Board via an expedited poll vote. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Gooden and who is engaged in the same or similar practice specialty.

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

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

### **Rehabilitation Program**

13. Within thirty days of the effective date of this Consent Agreement, Dr. Gooden 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, and shall undertake and maintain participation in S.L.A.A. or S.A no less than once a week. Substitution of any other specific programs must receive prior Board approval.

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

### **Aftercare**

14. Dr. Gooden shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, and the Advocacy Contract with the Ohio Physicians Effectiveness Program, Inc., or, if approved in advance by the Board, another physicians health program, provided that, where terms of the continuing care and advocacy contracts conflict with terms of this Consent Agreement, the terms of this Consent Agreement shall control.

### **Employment Approval/Condition**

15. Dr. Gooden shall obtain the prior approval of the Board for any medical practice or employment related to the health care fields. The Board shall consider, among other factors, the adequacy and continuity of supervision and the feasibility of restricted access to controlled substances, which will ensure the protection of the public, prior to approval or disapproval of the proposed employment. Dr. Gooden shall not engage in solo practice.

#### **Releases**

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

#### **Required Reporting by Licensee**

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

#### **FAILURE TO COMPLY**

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

If the Secretary and Supervising Member of the Board determine that there is clear and

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

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

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

### **ACKNOWLEDGMENTS/LIABILITY RELEASE**

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

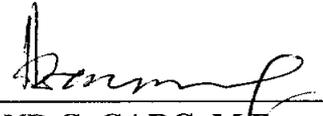
This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code, and may be reported to appropriate organizations, data banks, and governmental bodies. Dr. Gooden agrees to provide his social security number to the Board and hereby authorizes the Board to utilize that number in conjunction with that reporting.

### **EFFECTIVE DATE**

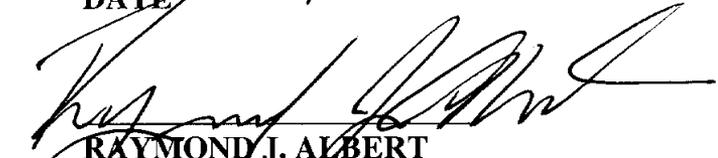
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

  
TIMOTHY A. GOODEN, M.D.

February 10, 2002  
DATE

  
ANAND G. GARG, M.D.  
Secretary

2/13/02  
DATE

  
RAYMOND J. ALBERT  
Supervising Member

2/13/02  
DATE

  
REBECCA J. ALBERS, ESQ.  
Assistant Attorney General

2/13/02  
DATE

**STEP I  
CONSENT AGREEMENT  
BETWEEN  
TIMOTHY A. GOODEN, M.D.  
AND  
THE STATE MEDICAL BOARD OF OHIO**

STATE MEDICAL BOARD  
OF OHIO  
2001 JUL 26 P 12:25

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

TIMOTHY A. GOODEN, M.D. 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 STATE MEDICAL BOARD OF OHIO is empowered by Section 4731.22, Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for violations of Section 4731.22(A), Ohio Revised Code, "fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board;" Section 4731.22(B)(5), Ohio Revised Code, "[m]aking a false, fraudulent, deceptive, or misleading statement . . . in securing or attempting to secure any certificate to practice or certificate of registration issued by the board;" and/or Section 4731.22(B)(26), Ohio Revised Code, "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice."
- B. THE STATE MEDICAL BOARD OF OHIO enters into this CONSENT AGREEMENT in lieu of formal proceedings based upon the violation of Section 4731.22(A), (B)(5), and (B)(26), Ohio Revised Code, as set forth in Paragraphs E, F, G and H 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. TIMOTHY A. GOODEN, M.D. is licensed to practice medicine and surgery in the State of Ohio.
- D. TIMOTHY A. GOODEN, M.D. STATES that he is not licensed to practice medicine and surgery in any other State or jurisdiction.
- E. TIMOTHY A. GOODEN, M.D. ADMITS that, on or about February 23, 2001, he drank alcoholic beverages at lunch and then returned to work to treat patients. DOCTOR GOODEN further ADMITS that, on that day, alcohol was detected on his breath by one of the employees and he was instructed to leave the facility immediately. DOCTOR GOODEN further ADMITS that, several days later, he was advised by his employer to seek help at an approved treatment center.
- F. TIMOTHY A. GOODEN, M.D. further ADMITS that on or about April 5, 2001, he was interviewed by an investigator with the State Medical Board of Ohio. DOCTOR GOODEN further ADMITS that although he had not yet entered treatment for chemical dependence at that time, he admitted to the investigator that alcohol was a problem for him and stated that he understood that he must undergo treatment if he wished to continue practicing medicine.
- G. TIMOTHY A. GOODEN, M.D. further ADMITS that he entered treatment for alcohol addiction at the Cleveland Clinic Foundation, a Board approved treatment provider in Cleveland, Ohio, on or about April 23, 2001, and STATES that upon completion of his twenty-eight day residential program on or about May 22, 2001, he chose to remain in the intensive outpatient program through on or about June 13, 2001. DOCTOR GOODEN further STATES that he has entered into an aftercare contract with the Cleveland Clinic Foundation, and further STATES that he has entered into an advocacy agreement with the Ohio Physicians Effectiveness Program.
- H. TIMOTHY A. GOODEN, M.D. further ADMITS that on or about September 9, 1998, in the Mentor Municipal Court in Mentor, Ohio, he pled guilty to, and was found guilty of, Driving Under the Influence of Alcohol/Drugs (DUI), a misdemeanor.

DOCTOR GOODEN further ADMITS that despite having pled guilty to, and been found guilty of, DUI, a misdemeanor, since signing his last application for renewal of his certificate, when he completed his application for renewal of his certificate to practice medicine or surgery on or about January 11, 2001, he answered "No" to Question 1 which asks "At any time since signing your last application for renewal of your certificate, have you been found guilty of, or pled guilty or no contest to, or received treatment in lieu of conviction of, a misdemeanor or felony?"

STATE MEDICAL BOARD  
OF OHIO

2001 JUL 26 P 12:12

**AGREED CONDITIONS**

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

**SUSPENSION OF CERTIFICATE**

1. The certificate of DOCTOR GOODEN to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than three months;

**Sobriety**

2. DOCTOR GOODEN 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 DOCTOR GOODEN's history of chemical dependency;
3. DOCTOR GOODEN shall abstain completely from the use of alcohol;

**Releases; Quarterly Declarations and Appearances**

4. DOCTOR GOODEN 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 DOCTOR GOODEN's chemical dependency or related conditions, or for purposes of complying with the CONSENT AGREEMENT, whether such treatment or evaluation occurred before or after the effective date of this CONSENT AGREEMENT. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. DOCTOR GOODEN further agrees to provide the BOARD written consent permitting any treatment provider from whom he obtains treatment to notify the BOARD in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this CONSENT AGREEMENT.
5. DOCTOR GOODEN shall submit quarterly declarations under penalty of BOARD disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this CONSENT AGREEMENT. The first quarterly declaration must be received in the BOARD's offices on the first day of the third month following the month in

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which the CONSENT AGREEMENT becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the BOARD's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the BOARD's offices on or before the first day of every third month;

6. DOCTOR GOODEN shall appear in person for quarterly interviews before the BOARD or its designated representative, or as otherwise directed by the BOARD.

If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled. (Example: The first quarterly appearance is scheduled for February, but based upon the doctor's serious personal illness he is permitted to delay appearance until April. The next appearance will still be scheduled for May, three months after the appearance as originally scheduled.) Although the BOARD will normally give DOCTOR GOODEN written notification of scheduled appearances, it is DOCTOR GOODEN's responsibility to know when personal appearances will occur. If he does not receive written notification from the BOARD by the end of the month in which the appearance should have occurred, DOCTOR GOODEN shall immediately submit to the BOARD a written request to be notified of his next scheduled appearance;

Drug & Alcohol Screens; Supervising Physician

7. DOCTOR GOODEN shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the BOARD. DOCTOR GOODEN 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;

Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR GOODEN shall submit to the BOARD for its prior approval the name of a supervising physician to whom DOCTOR GOODEN shall submit the required urine specimens. In approving an individual to serve in this capacity, the BOARD will give preference to a physician who practices in the same locale as DOCTOR GOODEN. The supervising physician shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the BOARD of any positive screening results;

DOCTOR GOODEN shall ensure that the supervising physician provides quarterly reports to the BOARD, on forms approved or provided by the BOARD, verifying whether all urine screens have been conducted in compliance with this CONSENT AGREEMENT, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his responsibilities;

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

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

#### CONDITIONS FOR REINSTATEMENT

8. The BOARD shall not consider reinstatement of DOCTOR GOODEN's certificate to practice medicine and surgery unless and until all of the following conditions are met:
  - a. DOCTOR GOODEN shall submit an application for reinstatement, accompanied by appropriate fees, if any;
  - b. DOCTOR GOODEN 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 DOCTOR GOODEN has successfully completed any required inpatient treatment;
    - ii. Evidence of continuing full compliance with an aftercare contract or consent agreement;

- iii. Two written reports indicating that DOCTOR GOODEN's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the BOARD for making such assessments and shall describe the basis for this determination.
- c. DOCTOR GOODEN shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the BOARD or, if the BOARD and DOCTOR GOODEN are unable to agree on the terms of a written CONSENT AGREEMENT, then DOCTOR GOODEN further agrees to abide by any terms, conditions and limitations imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Ohio Revised Code.

Further, upon reinstatement of DOCTOR GOODEN'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 and, upon termination of the consent agreement or Board Order, submission to the BOARD for at least two years of annual progress reports made under penalty of BOARD disciplinary action or criminal prosecution stating whether DOCTOR GOODEN has maintained sobriety.

9. In the event that DOCTOR GOODEN 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 DOCTOR GOODEN's fitness to resume practice.

#### **REQUIRED REPORTING BY LICENSEE**

10. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR GOODEN shall provide a copy of this CONSENT AGREEMENT by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. DOCTOR GOODEN further agrees to provide a copy of this CONSENT AGREEMENT by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement of

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any professional license. Further, DOCTOR GOODEN shall provide this BOARD with a copy of the return receipt as proof of notification within thirty (30) days of receiving that return receipt.

- 11. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR GOODEN shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, DOCTOR GOODEN shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

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

**FAILURE TO COMPLY**

If, in the discretion of the Secretary and Supervising Member of the BOARD, DOCTOR GOODEN appears to have violated or breached any term or condition of this CONSENT AGREEMENT, the BOARD reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this CONSENT AGREEMENT.

**ACKNOWLEDGMENTS/LIABILITY RELEASE**

DOCTOR GOODEN 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.

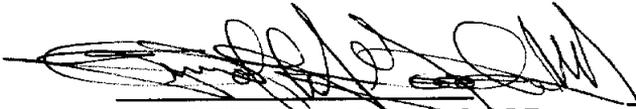
DOCTOR GOODEN hereby releases THE STATE MEDICAL BOARD OF OHIO, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

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

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

**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.

  
TIMOTHY A. GOODEN, M.D.

7/23/2001  
DATE

  
ANAND G. GARG, M.D. *17AD*  
Secretary

8/8/01  
DATE

  
RAYMOND J. ALBERT  
Supervising Member

8/8/01  
DATE

  
REBECCA J. ALBERS, ESQ.  
Assistant Attorney General

8/8/01  
DATE