



State Medical Board of Ohio

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July 12, 2006

Douglas Paul Bosack, M.D.
2250 List Street
Massillon, OH 44646

Dear Doctor Bosack:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Patricia A. Davidson, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on July 12, 2006, 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 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

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 7003 0500 0002 4329 9033
RETURN RECEIPT REQUESTED

Cc: Eric J. Plinke and John P. Carney, Esqs.
CERTIFIED MAIL NO. 7003 0500 0002 4329 9057
RETURN RECEIPT REQUESTED

Mailed 8-8-06

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 July 12, 2006, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Douglas Paul Bosack, 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)

July 12, 2006

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

DOUGLAS PAUL BOSACK, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on July 12, 2006.

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 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:

The certificate of Douglas Paul Bosack, M.D., to practice medicine and surgery in Ohio is PERMANENTLY REVOKED.

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

(SEAL)



Lance A. Talmage, M.D.
Secretary

July 12, 2006
Date

**REPORT AND RECOMMENDATION
IN THE MATTER OF DOUGLAS PAUL BOSACK, M.D.**

The Matter of Douglas Paul Bosack, M.D., was heard by Patricia A. Davidson, Hearing Examiner for the State Medical Board of Ohio, on May 30, 2006.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated February 8, 2006, the State Medical Board of Ohio [Board] notified Douglas Paul Bosack, M.D., that it had proposed disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board's action was based on allegations that Dr. Bosack had violated the terms of a consent agreement and was impaired in his ability to practice. (State's Exhibit 1A)

The Board alleged that Dr. Bosack had violated "the conditions of limitation placed by the board upon a certificate to practice," as that clause is used in Ohio Revised Code Section [R.C.] 4731.22(B)(15). Further, the Board alleged that Dr. Bosack had relapsed on alcohol and was impaired as defined in R.C. 4731.22(B)(26). Accordingly, the Board advised Dr. Bosack of his right to request a hearing. (State's Exhibit 1A)

- B. On February 23, 2006, Eric J. Plinke and John P. Carney, Esqs., submitted a written hearing request on Dr. Bosack's behalf. (State's Exhibit 1B)

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Barbara J. Pfeiffer, Assistant Attorney General.
- B. On behalf of the Respondent: Eric J. Plinke and John P. Carney, Esqs.

EVIDENCE EXAMINED

I. Testimony Heard

- A. Presented by the State
Danielle Bickers
- B. Presented by the Respondent
Douglas Paul Bosack, M.D.

II. Exhibits Examined

- A. State's Exhibits 1A through 1F: Procedural exhibits.
- B. State's Exhibit 2: Certified copy of Dr. Bosack's 2005 Step I Consent Agreement.
- C. State's Exhibit 3: Certified copies of documents maintained by the Board in the *Matter of Douglas Paul Bosack M.D.*, as follows:

Exhibit 3A: May 2005 Notice of Summary Suspension and Opportunity for Hearing;

Exhibit 3B: December 1999 Entry of Order;

Exhibit 3C: October 1999 Report and Recommendation;

Exhibit 3D: May 1998 Consent Agreement.

SUMMARY OF THE EVIDENCE

Background and Education

1. Dr. Bosack testified that he had graduated from medical school at the University of Cincinnati and completed a residency and cardiology fellowship at Henry Ford Hospital in Detroit in 1983. He stated that he had joined a practice group in Toledo, Ohio, and practiced successfully as a cardiologist for more than fifteen years. He testified that he had never been sued for malpractice, and he asserted that he had never engaged in drinking alcohol during the work day. (Tr. at 25-27)

1998 Consent Agreement

2. On May 13, 1998, Dr. Bosack entered into a Consent Agreement [the 1998 Consent Agreement] with the Board in lieu of formal proceedings based on his violations of R.C. 4731.22(B)(5), (B)(13), (B)(19), and (B)(26). In the 1998 Consent Agreement, Dr. Bosack made a variety of admissions, including that he had been evaluated and/or treated for alcohol dependency as follows:
 - Treatment for alcohol dependency at the Hazelden Clinic in Center City, Minnesota, from May 16 to June 12, 1994, after which he relapsed by resuming alcohol use;
 - Evaluation and/or treatment at The Toledo Hospital on August 30, 1996;
 - Evaluation and/or treatment at the Herrington Clinic in West Allis, Wisconsin, from September 8 to September 12, 1996; and

- Evaluation and/or treatment at The Toledo Hospital on October 3, 1996, with admission into the hospital's Level 1 Outpatient Program on October 7, 1996, and discharge from the program on November 11, 1996, into a continuing care program.

(State's Exhibit [St. Ex.] 3D)

Pursuant to the 1998 Consent Agreement, Dr. Bosack's certificate to practice was suspended for an indefinite period of time not less than three months, with interim monitoring requirements and conditions for reinstatement. Additionally, the 1998 Consent Agreement provided that, upon reinstatement, Dr. Bosack's certificate would be subject to certain probationary terms, conditions, and limitations for a period of at least five years. (St. Ex. 3D)

The Board's 1999 Order: Stayed Permanent Revocation and Suspension

3. In September 1998, Dr. Bosack was stopped for speeding and admitted that he had been drinking. By letter dated September 23, 1998, Dr. Bosack notified the Board that he had sustained a relapse. (St. Ex. 3C)
4. On October 14, 1998, the Board issued a Notice of Opportunity for Hearing, notifying Dr. Bosack of proposed disciplinary action against his certificate based on alleged violations of the 1998 Consent Agreement and impairment, based on R.C. 4731.22(B)(15) and R.C. 4731.22(B)(26), respectively. (St. Ex. 3C)
5. A hearing was held in August 1999, after which a Hearing Examiner issued a Report and Recommendation on October 28, 1999 [the 1999 Report]. On December 8, 1999, the Board entered an Order [the 1999 Board Order] that adopted the 1999 Report as amended. In its Order, the Board permanently revoked Dr. Bosack's certificate to practice, stayed the permanent revocation, and suspended his certificate for an indefinite period of time not less than one year. The Order set forth interim monitoring requirements and conditions for reinstatement, and also provided for post-reinstatement probationary terms, conditions, and limitations for a period of seven years. (St. Ex. 3B-3C)

2001 Reinstatement and Probation

6. On January 10, 2001, the Board reinstated Dr. Bosack's certificate subject to the conditions and terms in the 1999 Board Order. At its meeting in March 2001, the Board approved Dr. Bosack's practice plan and approved his commencement of practice subject to the probationary conditions, terms, and limitations in the 1999 Board Order for a period of seven years. (Tr. at 44-46; St. Exs. 3A-3B)

One of the probationary requirements of the 1999 Board Order, set forth in Paragraph 4(i), was that "Dr. Bosack shall abstain completely from the use of alcohol." (St. Ex. 3B)

Summary Suspension in May 2005 due to Violation of Board's 1999 Order

7. On May 18, 2005, the Board summarily suspended Dr. Bosack's certificate, citing violations of R.C. 4731.22(B)(15) and R.C. 4731.22(B)(26). (St. Ex. 3A) In its Notice of Summary Suspension and Opportunity for Hearing dated May 18, 2005, the Board alleged, among other things:
- that, on or about October 16, 2001, Dr. Bosack had been convicted in Xenia Municipal Court, Greene County, Ohio, of operating a vehicle under the influence of alcohol, his second offense within six years; and, further, that the charges had cited a test of blood alcohol concentration showing that he had operated a motor vehicle with a blood alcohol level of 0.127;
 - that Dr. Bosack had failed to report his June 2001 relapse to the Board until May 2005 when he responded to interrogatories from the Board; and
 - that, on or about March 31, 2005, Dr. Bosack reported to the Board that he had been arrested on or about January 15, 2005, in Lewisburg, West Virginia, for operating a vehicle while under the influence of alcohol. (St. Ex. 3A)

The Board further alleged that, on or about April 12, 2005, Dr. Bosack had advised representatives of the Board that, on the day of his arrest in January 2005, he had voluntarily consumed alcohol at a wine-tasting party, and that his breathalyzer test had shown a blood alcohol concentration of 0.108. In addition, the Board alleged that Dr. Bosack had also admitted that he consumed alcohol on two other occasions during the week prior to the West Virginia arrest in January 2005. (St. Ex. 3A)

Step I Consent Agreement in October 2005: Stayed Permanent Revocation and Suspension

8. On or about October 14, 2005, Dr. Bosack entered into a Step 1 Consent Agreement with the Board [2005 Step 1 Agreement] in lieu of formal proceedings based upon his violations of R.C. 4731.22 (B)(26), (B)(15), (B)(5), and (B)(20). (St. Ex. 2)

In the 2005 Step 1 Agreement, Dr. Bosack expressly admitted "the factual and legal allegations set forth in the Notice of Summary Suspension and Opportunity for Hearing issued on or about May 18, 2005." By admitting this, Dr. Bosack admitted the truth of the allegations listed above and also admitted that he had submitted false Declarations of Compliance in June 2001, September 2001, and December 2001, claiming that he had been compliant with the probationary terms of the Board's 1999 Order. (St. Ex. 2)

Under the terms of the 2005 Step 1 Agreement, the summary suspension was terminated. In its place, the agreement imposed a permanent revocation, stayed the revocation, and suspended the certificate for an indefinite period of time not less than three years, with interim monitoring requirements and conditions for reinstatement. (St. Ex. 2)

Paragraph 3 of the 2005 Step 1 Agreement sets forth the provision that Dr. Bosack must “abstain completely from the use of alcohol.” In addition, Paragraph 8 of the agreement requires him to attend Alcoholics Anonymous, N.A., or C.A. meetings no less than three times per week, in addition to at least one Caduceus meeting per week. (St. Ex. 2)

Violation of the Step 1 Consent Agreement

9. Danielle Bickers, the Compliance Officer for the Board, testified that Dr. Bosack was scheduled to appear before the Board at its meeting in January 2006, pursuant to the requirements of the 2005 Step 1 Consent Agreement. She testified that she received a voicemail message from Dr. Bosack on January 10, 2006, the day before his scheduled appearance, in which he stated that he had decided not to keep his medical license and may want to surrender it. (Tr. at 13-17)

Ms. Bickers stated that she had called Dr. Bosack on January 11, 2006, at which time he indicated that he did not know whether he wanted to keep his license. He explained that, by the time his license was reinstated, he would be in his mid-fifties and it would be difficult to find employment. Ms. Bickers testified that, when she asked Dr. Bosack if he was maintaining sobriety, he responded that he was not. He stated that he had been drinking intermittently since December 2005 and had consumed alcohol two days previously. According to Ms. Bickers, Dr. Bosack stated that he did not need to have a medical license to stay sober, could stop drinking any time he wanted to, and would not comply with a consent agreement unless it was necessary in order to continue receiving his disability benefits. (Tr. at 17-18)

Ms. Bickers further testified that Dr. Bosack told her that he had no plans to reenter treatment and had not been attending required meetings such as Alcoholics Anonymous, although he knew he needed to attend meetings to stay sober. Ms. Bickers stated that, when she asked Dr. Bosack whether he had been in compliance with any of the terms of the consent agreement, he responded that he had not. (Tr. at 18)

In addition, Ms. Bickers stated that, during the conversation, they discussed “surrender options and what that may or may not mean to his disability” benefits. Dr. Bosack indicated that he may consult an attorney and talk with his psychiatrist, Dr. Desai, about this decision.¹ (Tr. at 18-19)

Ms. Bickers described a subsequent voicemail message that she had received from Dr. Bosack on January 18, 2006, in which he stated that he had decided not to pursue his medical license. However, he said he did not want to surrender it, and would rather have the Board “take it away.” (Tr. at 19-20)

Last, when Ms. Bickers was questioned as to whether she had knowledge of clinical problems in Dr. Bosack’s medical practice, she testified that she did not. (Tr. at 22)

¹ The hearing transcript does not include Dr. Desai’s full name.

Dr. Bosack's Testimony and Requested Disposition

10. Dr. Bosack confirmed at the hearing that he was "not in compliance with any portion of the 2005 consent agreement." He testified that he had consumed alcohol recently, "about a week ago," and that he had relapsed "many times" since the 2005 Step I Agreement. (Tr. at 41-42)

In addition, Dr. Bosack explained that, after signing the 2005 Step I Agreement, he had forgotten about it until he received the Board's notice regarding his initial quarterly appearance to take place January 11, 2005. Dr. Bosack testified that, in 2005, he had been in a "very unorganized state." He explained that he had relocated to West Virginia but had not yet started work when he was arrested for DUI, after which the West Virginia Board had revoked his license. Dr. Bosack stated that he had been unemployed in the autumn of 2005, with his career "going down the drain" and living in a strange town where he had few acquaintances. He stated that he had been seeing a psychiatrist near Roanoke, Virginia, who was adjusting his medication for bipolar disorder and counseling him on alcohol use. Dr. Bosack stated that, when he received the Board's reminder about his January 2006 appearance, he realized that he had signed a consent agreement. Dr. Bosack clarified, however, that he was not drunk at the time he signed the agreement but simply did not remember it because his life had been in chaos. (Tr. at 28-29, 38-39)

Dr. Bosack also testified that, when he received the reminder about his quarterly appearance before the Board, he had been doing his best to abstain from alcohol but had been unsuccessful. He also testified that he had moved to Canton, Ohio, where he had needed to find a new physician to treat his bipolar disorder and alcoholism. Dr. Bosack said that he was in the process of finding a new physician but had not yet found one. (Tr. at 29-30, 42-43)

With respect to his current status, Dr. Bosack testified that, given his state of mind and the problems in his personal life, he cannot sustain abstinence from alcohol. Thus, he stated that he cannot currently comply with an order or agreement requiring 100% abstinence, and that Dr. Desai had recommended against a consent agreement at this time. Dr. Bosack stated: "I cannot, in good faith, sign a consent agreement today because I don't think I'm at that point in my life yet." (Tr. at 29-30, 33, 41)

11. With regard to potential sanctions that the Board might impose in the present matter, Dr. Bosack described the recent order of the Indiana Medical Board, which had imposed an "indefinite suspension until the time that I may or may not be able to demonstrate total sobriety, at which time they would reconsider my case for licensure." Dr. Bosack stated that he would like the Ohio Board to issue an order like that, "with an indefinite suspension rather than revocation, in which case, if through further counseling, adjustment of medication, if I can successfully maintain sobriety prior to signing a consent agreement to demonstrate to myself that I can adhere to it, then I could return to the Board and possibly enter into an agreement with a term of suspension to be determined at that time." (Tr. at 31)

Dr. Bosack testified that he has not previously had adjustments to his medication for bipolar disorder "outside the treatment center." He said that, fifteen years ago, he had tried Lithium for

a brief period that was interrupted by his divorce and change of physicians. Dr. Bosack stated that he is not optimistic about recovery but that it is a possibility. He explained that his current disability status is based on his diagnoses of bipolar disease and alcoholism. (Tr. at 33-34, 41)

Dr. Bosack clarified that he cannot comply “in the immediate future” with probationary terms requiring complete abstinence and regular AA attendance but that adjustments in medication may give him better control of his bipolar disorder, which may in turn help him maintain abstinence. In that event, he would like to be able to “return to the Board in three months, six months, and say, ‘Yes, I do want to sign a consent agreement now.’” (Tr. at 32)

FINDINGS OF FACT

1. On or about May 13, 1998, Douglas Paul Bosack, M.D., entered into a Consent Agreement [1998 Consent Agreement] with the Board in lieu of formal proceedings based on his violations of Ohio Revised Code Sections [R.C.] 4731.22 (B)(5), (B)(13), (B)(19), and (B)(26).

In the 1998 Consent Agreement, Dr. Bosack made admissions, including the following: that, from on or about May 16, 1994, through on or about June 12, 1994, he had received treatment for alcohol dependency at the Hazelden Clinic in Center City, Minnesota, and that he had subsequently relapsed by resuming alcohol use; that he had been evaluated and/or treated at The Toledo Hospital in Toledo, Ohio, on or about August 30, 1996; that he had been evaluated and/or treated at the Herrington Clinic in West Allis, Wisconsin, from on or about September 8, 1996, to on or about September 12, 1996; and that he had been evaluated and/or treated again at The Toledo Hospital on or about October 3, 1996, and had entered the hospital’s Level 1 Outpatient Program on October 7, 1996.

Pursuant to the 1998 Consent Agreement, Dr. Bosack’s certificate to practice medicine and surgery in Ohio was suspended for an indefinite period of time not less than three months, with interim monitoring requirements and conditions for reinstatement. Additionally, the 1998 Consent Agreement provided that, upon reinstatement, Dr. Bosack’s certificate to practice medicine and surgery would be subject to certain probationary terms, conditions and limitations for a period of at least five years.

2. By letter dated October 14, 1998, the Board notified Dr. Bosack that it had proposed disciplinary action against his certificate based on allegations that he had violated R.C. 4731.22(B)(15) and R.C. 4731.22(B)(26). After a hearing on the matter, a Hearing Examiner for the Board issued a Report and Recommendation on October 28, 1999.

On December 8, 1999, the Board entered an Order [the 1999 Order] adopting the Report and Recommendation as amended. The Board permanently revoked Dr. Bosack’s certificate to practice medicine and surgery in Ohio, stayed the permanent revocation, and suspended his certificate for an indefinite period of time not less than one year.

3. On January 10, 2001, the Board voted to reinstate Dr. Bosack’s certificate, subject to certain conditions and terms as required under the 1999 Board Order. At its meeting in March 2001,

the Board approved Dr. Bosack's commencement of practice subject to probationary terms, conditions and limitations for a period of seven years, pursuant to the 1999 Board Order.

4. In a Notice of Summary Suspension and Opportunity for Hearing [Suspension Notice] dated May 18, 2005, the Board notified Dr. Bosack that it had summarily suspended his certificate pursuant to R.C. 4731.22(G). Further, the Board notified him that it proposed to take disciplinary action against his certificate based on violations of R.C. 4731.22(B)(5), (B)(15), (B)(20), and/or (B)(26).
5. On October 14, 2005, Dr. Bosack entered into a Step I Consent Agreement with the Board [the 2005 Agreement] in lieu of formal proceedings based on his violations of R.C. 4731.22 (B)(26), (B)(15), (B)(5), and (B)(20). In the 2005 Agreement, Dr. Bosack admitted the truth of the factual and legal allegations in the Suspension Notice of May 18, 2005, including the following:
 - (a) that, despite the requirement in the 1999 Board Order of complete abstention from alcohol, Dr. Bosack had been convicted on or about October 16, 2001, in Xenia Municipal Court, Greene County, Ohio, of operating a motor vehicle while under the influence of alcohol on or about June 2, 2001, as a second offense within six years; and, in addition, that Dr. Bosack had failed to report this June 2001 relapse to the Board; and further, that instead of reporting the relapse, he had submitted false Declarations of Compliance in June 2001, September 2001, and December 2001, claiming that he had been and continued to be compliant with the terms of his 1999 Board Order; and
 - (b) that, despite the requirement in the 1999 Board Order of complete abstention from alcohol, Dr. Bosack had been arrested for operating a vehicle while under the influence of alcohol on or about January 15, 2005, in Lewisburg, West Virginia, and that a breathalyzer test had shown that his blood alcohol concentration was 0.108.

The 2005 Agreement terminated the summary suspension of Dr. Bosack's certificate. In place of the summary suspension, the 2005 Agreement permanently revoked the certificate, stayed the permanent revocation, and suspended the certificate for an indefinite period of time not less than three years, with interim monitoring requirements and conditions for reinstatement. Paragraph 3 of the 2005 Agreement requires Dr. Bosack to "abstain completely from the use of alcohol." Paragraph 8 of the 2005 Agreement requires him to attend Alcoholics Anonymous, N.A., or C.A. meetings no less than three times per week, in addition to at least one Caduceus meeting per week.

6. On January 11, 2006, Dr. Bosack reported to the Board's Compliance Officer that he had relapsed, in that he had been consuming alcohol since December 2005 despite the requirement in Paragraph 3 of the 2005 Agreement that he must abstain completely from the use of alcohol. Further, despite the requirement in Paragraph 8 requiring attendance at meetings, Dr. Bosack reported to the Compliance Officer that he had not been attending the required meetings. He further reported that he had no plans to reenter treatment, that he could stop drinking any time that he wanted to, and that he was not in compliance with any portion of his 2005 Agreement.

7. At the hearing on May 30, 2006, Dr. Bosack confirmed that he was not in compliance with any portion of the 2005 Agreement and admitted that he had relapsed many times since entering into the 2005 Agreement.

CONCLUSIONS OF LAW

1. The conduct of Douglas Paul Bosack, M.D., as set forth above in Findings of Fact 5 through 7, constitutes a “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice,” as that clause is used in R.C. 4731.22(B)(15).
2. Dr. Bosack’s conduct as alleged above in Findings of Fact 1 through 7 demonstrates an “impairment” of Dr. Bosack’s “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 term is used in R.C. 4731.22(B)(26).

* * * * *

Dr. Bosack failed to comply with his 1998 Consent Agreement, his 1999 Board Order, and his 2005 Consent Agreement. In the 2005 Consent Agreement, the Board permanently revoked Dr. Bosack’s certificate but stayed the permanent revocation, imposing conditions for suspension and probation.

At present, a new Order that imposes a suspension with conditions and monitoring requirements would be futile. Dr. Bosack has stated that he cannot comply with the Board’s requirements, at least in the immediate future.

The Board would be within its discretion to order a permanent revocation, in that Dr. Bosack has not demonstrated or even asserted that he is firmly committed to overcoming his addiction and regaining his medical certificate: he is not attending recovery meetings; he has not found a treating physician since moving back to Ohio several months ago; and he has no plans to reenter treatment. In addition, when the Board stayed a permanent revocation as part of the 2005 Consent Agreement, the Board clearly put Dr. Bosack on notice of the serious consequences that could result from failure to comply with the terms and conditions of the agreement. Moreover, in January 2006, Dr. Bosack informed the Board’s Compliance Officer that he no longer wanted to pursue the return of his certificate.

On the other hand, a non-permanent revocation may be more appropriate in these circumstances. Future improvement is a possibility, especially if Dr. Bosack begins regular treatment with a local physician for his bipolar disorder and alcoholism. In addition, an Order foreclosing all opportunity of returning to practice in Ohio will not increase Dr. Bosack’s chances for recovery nor provide additional protection to the public.

PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Douglas Paul Bosack, M.D., to practice medicine and surgery in Ohio is REVOKED.

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



P. A. Davidson
Hearing Examiner



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

EXCERPT FROM THE DRAFT MINUTES OF JULY 12, 2006

REPORTS AND RECOMMENDATIONS

Dr. Robbins announced that the Board would now consider the findings and orders appearing on the Board's agenda. He asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Douglas Paul Bosack, M.D.; John R Hanagan, M.D.; Mitchell Edward Simons, M.D.; and Frank Murray Strasek, D.P.M. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

Dr. Robbins 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. Varyani	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

Dr. Buchan returned to the room at this time.

Dr. Robbins asked Dr. Buchan whether he had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Douglas Paul Bosack, M.D.; John R Hanagan, M.D.; Mitchell Edward Simons, M.D.; and Frank Murray Strasek, D.P.M. Dr. Buchan replied that he had.

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

Dr. Robbins 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. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

Dr. Robbins 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.

DOUGLAS PAUL BOSACK, M.D.

Dr. Robbins directed the Board's attention to the matter of Douglas Paul Bosack, M.D. He advised that no objections were filed to Hearing Examiner Davidson's Report and Recommendation.

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

Dr. Bosack was accompanied by his attorney, John P. Carney.

Dr. Bosack thanked the Board for allowing him to appear. He also thanked the Hearing Examiner for her recommendation, which he felt was generous in view of the issues at hand in his past. He stated that, as the Board is aware, he's been battling his problems with bipolar disorder and alcohol use for about ten years now. He advised that he's hoping for a favorable decision by the Board today based upon the fact that he's had some changes in his treatment for bipolar disorder, made by his psychiatrist in Roanoke, Virginia. He stated that he has recently found a new psychiatrist in Canton, Ohio, where he's currently residing. Dr. Bosack stated that it seems that the addition of Lithium to his regimen about two months ago is having some benefit, which is part of the reason he's here today. Dr. Bosack stated that he had previously been feeling quite despondent and hopeless about his future as a physician, but he has definitely changed that opinion.

Dr. Bosack continued that he was at a hearing in June regarding his previous Consent Agreement, which was signed in October 2005. Dr. Bosack stated that, quite frankly, he does not even recall signing that agreement. He did not comply with the agreement. Dr. Bosack added that, certainly, he was at fault for that. Not having remembered even being involved in it sounds strange, but he thinks that it was based upon the fact that he felt despondent. He thought that a three-year suspension was interminable with regard to his future as a physician at that time, and he now feels differently about that.

Dr. Bosack stated that his hope today is to ask the Board to be generous enough to, perhaps, give him another chance, not by signing a consent agreement immediately, but by giving him enough time to see if further treatment for his bipolar disorder has an optimal effect, which could lead him to full sobriety. His plan for the immediate future is to start attending A.A. meetings in Canton. He's found a new physician to administer his medications since he left West Virginia, and he intends to follow up with a psychiatrist on a treatment basis.

Dr. Bosack again thanked the Board for meeting with him today.

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

Ms. Pfeiffer stated that there was no factual dispute about what was taking place in this case. From the evidence presented, Dr. Bosack has been in and out of treatment for alcohol-related issues for the past twelve years. His disciplinary history with the Board began in 1998 with a consent agreement, a subsequent violation, a hearing and adjudication order in 1999, reinstatement in 2001, and then in May 2005 a summary suspension was imposed. Dr. Bosack ultimately entered into a consent agreement in October 2005.

Ms. Pfeiffer stated that Dr. Bosack readily admitted to Ms. Bickers that he was not in compliance with any of the terms of the consent agreement. He readily admitted that at the hearing. She added that he was very pleasant and professional at the hearing. Ms. Pfeiffer stated that Dr. Bosack did make a comment that he'd been doing his best to abstain from alcohol. Ms. Pfeiffer stated that there's nothing to support that in the evidence. Dr. Bosack is not going to A.A. or N.A. and he's not going to Caduceus, as required by the consent agreement. Ms. Pfeiffer stated that that is a bit inconsistent with Dr. Bosack's testimony.

Ms. Pfeiffer referred to Dr. Bosack's testimony at hearing. She noted that there was discussion about Dr. Bosack's signing a consent agreement. Dr. Bosack testified that he could not in good faith sign a consent agreement because he didn't think that he was at that point in his life. He acknowledged that he's not at a point in his life where he felt he could maintain sobriety. He testified that the adjustments to his medications for the bipolar disorder, Lithium, had just been added about two weeks before. When asked how long he'd been treated with medication for the bipolar disorder, Dr. Bosack stated that, actually, the medication adjustments had all been made by Dr. Desai in Roanoke since the summer of 2005. He has been on medications since 1987. Ms. Pfeiffer commented that Dr. Bosack has been on medication for the bipolar disorder for about 19 years.

Ms. Pfeiffer advised that Dr. Bosack testified that bipolar disorder is generally treated with more than one drug and he had not had any other drugs added until recently. When asked whether, since he first came under the Board's auspices with the first consent agreement in 1998, his medication for bipolar had ever been adjusted to a level that's been able to let him maintain sobriety, Dr. Bosack testified "outside the treatment center, no." Ms. Pfeiffer commented that it sounds like the only time Dr. Bosack has been able to maintain his sobriety is when he's in a treatment center.

Ms. Pfeiffer continued that, when they talked about his relapse, she asked Dr. Bosack whether he could tell her how many times he had relapsed on alcohol since October 2005, when he signed the latest consent agreement with the Board. Dr. Bosack answered, "No. Many times." He testified that the most recent time he had consumed alcohol was about a week prior to the hearing.

When asked for clarification concerning the adjustments that he was trying with his medication, Dr. Bosack wasn't saying that at this point in time it's enabled him to be sober, but that there is a possibility that with future adjustments it may enable him to become sober. Ms. Pfeiffer stated that Dr. Bosack's answer was very sobering. His answer was that he wouldn't even say that he was optimistic. He stated that he would say that there is a possibility.

Ms. Pfeiffer stated that the Board will have to decide what to do with Dr. Bosack at this point in time. She noted that he's been in and out of treatment for alcoholism for twelve years, and has been treated for bipolar disorder for the past 19 years. He's not currently attending A.A. or Caduceus, and he's not in compliance with any of the terms of his 2005 Consent Agreement.

Ms. Pfeiffer stated that, with respect to the Board's disciplinary options, she asked the Board to think what might be the best procedurally. If the Board is considering revoking Dr. Bosack's license, versus permanently revoking it, he can come back in a year or two. If you revoke his license with no conditions for coming back for reapplication, there's probably not a lot the Board can do to prevent him from coming back in. If the Board permanently revokes his license, everyone knows what that means. If the Board revokes him with conditions, he would have to meet certain conditions, such as showing that he's been in treatment for a number of years, etc. Alternatively, the Board could permanently revoke his license, and indefinitely suspend his license for a minimum period of time, and give him conditions for reinstatement. Ms. Pfeiffer stated that she doesn't think that any interim monitoring conditions are appropriate for this doctor at this point in time. He's not agreeing to go to A.A., and he's not following through with it. Ms. Pfeiffer stated that, administratively, as the Board thinks through this, if it wants to leave the door open for Dr. Bosack to come back into practice, indefinitely suspending his license after a stayed permanent revocation would probably be administratively easiest for the staff and for everybody involved in order to possibly get him back in in the future.

DR. KUMAR MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF DOUGLAS PAUL BOSACK, M.D. MR. BROWNING SECONDED THE MOTION.

Dr. Robbins stated that he would now entertain discussion in the above matter.

Dr. Steinbergh stated that she really believes that Dr. Bosack is a bad bet. The Board is in favor of supporting physicians with chemical dependency and other areas of impairment in terms of psychiatric disease; but she thinks that the chances for Dr. Bosack to come back in a healthy way and be productive are slim. The Board has gone from the direction of many years ago, believing that permanent revocation was the way to go in issues like this, to a direction of imposing a revocation and allowing the licensee, after a period of years, to regain the license if they can demonstrate to the Board in some fashion that they've been sober and in control. The Board takes another look at them, requires a special examination to make sure that they're appropriate for medical care, and then the Board may require a practice plan where the Board can monitor the licensee closely. There are options.

Dr. Steinbergh stated that it's clear in this case that Dr. Bosack will have to be out a long time before he can be re-evaluated by the Board, whether it's under a revocation or some other form of discipline. Dr. Steinbergh stated that she's always in favor of a consideration of revocation, with some form of direction to the physician under which circumstances the Board would discourage him from reapplying. Dr. Steinbergh added, however, that a permanent revocation under a situation like this might be more appropriate. The Board has warned Dr. Bosack, and has issued two previous stayed permanent revocations. Dr. Bosack was under notice.

Dr. Steinbergh stated that she could go either way on this case. She added that she does have a lot of compassion for physicians who have this disease, but there comes a point where you have to say that the disease is such that, perhaps being a physician is not the appropriate thing to be in life.

Dr. Egner stated that she is not in favor of revocation in this case. She doesn't see any purpose in it. It leaves the door open for the Board to be rather vulnerable. She noted that, in the record, Dr. Bosack says that he could come back in two or three months. That certainly is not what the Board is looking for.

Dr. Egner stated that her personal opinion is that the Board should permanently revoke Dr. Bosack's license. He has had two stayed permanent revocations in the past. Another factor that weighs on her is that in 2001 he had a relapse that was never reported to the Board and was not discovered until 2005. Not only has he had multiple relapses under stayed permanent revocations, but the Board doesn't have a good way of following this fellow and monitoring him, even when he's supposed to be monitored.

Dr. Egner stated that she doesn't say this lightly, adding that there haven't been many times when the Board has permanently revoked a physician because of their impairment; but she thinks that this is, unfortunately, one of those times that the Board has to do it. Dr. Egner stated that she thinks back on licensees who have been given an indefinite suspension of five years, giving them time to really show a long term history of being able to remain sober. She questioned whether this is someone for whom the Board should do this. Dr. Egner stated that she believes that people who have had that opportunity in the past, generally haven't had such a long history with the Board. Those were doctors who had extremely serious impairments, but not a long history with the Board. Dr. Bosack has had a pretty long history with

the Board, and has never been able to comply. Dr. Egner stated that she's not sure that she understands today why that would be any different.

DR. EGNER MOVED TO AMEND THE PROPOSED ORDER BY SUBSTITUTING AN ORDER OF PERMANENT REVOCATION IN THE MATTER OF DOUGLAS PAUL BOSACK, M.D. DR. BUCHAN SECONDED THE MOTION.

Dr. Buchan stated that he suspects the minutes will reflect that, at one point in time, he was in favor of rehabilitating Dr. Bosack. He added that he believes that compassion rules as the Board sits around the table. Dr. Buchan added, however, that the Board needs to say what it means and mean what it says. He added that he thinks that Dr. Bosack's hope is in survival, not in maintaining his medical license. Dr. Buchan stated that he's more interested in Dr. Bosack surviving and getting through this process. That's where he places his hope. Dr. Buchan stated that he would vote for permanent revocation of Dr. Bosack's license. Dr. Buchan stated that he thinks that the Board needs to cut strings and simply follow through with what the Board suggested it was going to do the last time the Board and Dr. Bosack met.

Dr. Kumar also spoke in support of permanent revocation in this case. One of the things he's looked at is Dr. Bosack's comment about being on new medicine that might help his bipolar condition. Dr. Kumar noted that Dr. Bosack has been on this Lithium for almost seven months, not just a couple of weeks. He stated that Dr. Bosack's response at the time of the hearing makes him believe that it isn't just a matter of adjustment of medications. Dr. Bosack's problem is a lot deeper. Dr. Kumar stated that he doesn't think that Dr. Bosack can be effectively rehabilitated to serve the citizens of Ohio.

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

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

The motion carried.

DR. EGNER MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF DOUGLAS PAUL BOSACK, M.D. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

February 8, 2006

Douglas Paul Bosack, M.D.
2250 List Street NW
Massillon, Ohio 44646

Dear Doctor Bosack:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [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) On or about May 13, 1998, you entered into a Consent Agreement [1998 Consent Agreement] with the Board in lieu of formal proceedings based upon your violations of Sections 4731.22 (B)(5), (B)(13), (B)(19) and (B)(26), Ohio Revised Code. In the 1998 Consent Agreement, you made certain admissions, including that, from on or about May 16, 1994, through on or about June 12, 1994, you received treatment for alcohol dependency at the Hazelden Clinic in Center City, Minnesota, and that you subsequently relapsed by resuming alcohol use; that you were evaluated and/or treated at The Toledo Hospital in Toledo, Ohio, on or about August 30, 1996; that you were evaluated and/or treated at the Herrington Clinic in West Allis, Wisconsin, from on or about September 8, 1996, to on or about September 12, 1996; that you were again evaluated and/or treated at The Toledo Hospital on or about October 3, 1996; and that you entered The Toledo Hospital's Level 1 Outpatient Program on October 7, 1996.

Pursuant to the 1998 Consent Agreement, your certificate to practice medicine and surgery was suspended for an indefinite period of time, but not less than three months, with interim monitoring requirements and conditions for reinstatement. Additionally, the 1998 Consent Agreement provided that, upon reinstatement, your certificate to practice medicine and surgery would be subject to certain probationary terms, conditions and limitations for a period of at least five years.

- (2) By letter dated October 14, 1998, the Board notified you that it proposed to determine whether or not to limit, revoke, permanently revoke, or suspend your certificate to practice medicine and surgery in Ohio, refuse to issue or reinstate your certificate, or to reprimand you or place you on probation due to allegations that your acts, conduct, and/or omissions, individually and/or collectively, constituted violations of Sections 4731.22(B)(15) and (B)(26), Ohio Revised Code. After a hearing on the

Mailed 2-9-06

matter in front of an Attorney Hearing Examiner for the Board, the Attorney Hearing Examiner issued a Report and Recommendation In The Matter Of Douglas P. Bosack, M.D

On or about December 8, 1999, the Board entered an Order that adopted the Hearing Examiner's Report and Recommendation as amended, permanently revoked your certificate to practice medicine and surgery in the State of Ohio, stayed said permanent revocation, and suspended your certificate to practice medicine and surgery for an indefinite period of time, but not less than one year. A copy of the Board's December 8, 1999, Entry of Order [1999 Board Order] is attached hereto and fully incorporated herein.

- (3) On or about January 10, 2001, the Board reinstated your certificate to practice medicine and surgery in the State of Ohio, subject to specified probationary terms, conditions and limitations, for a period of seven years, as set forth in the 1999 Board Order.
- (4) In a Notice of Summary Suspension and Opportunity for Hearing dated May 18, 2005, the Board notified you that, pursuant to Section 4731.22(G), Ohio Revised Code, the Board had adopted an Order of Summary Suspension of your certificate to practice medicine and surgery in the State of Ohio. Further, the Board notified you that it proposed to determine whether or not to limit, revoke, permanently revoke, or suspend your certificate to practice medicine and surgery in Ohio, refuse to issue or reinstate your certificate, or to reprimand you or place you on probation due to allegations that your acts, conduct, and/or omissions, individually and/or collectively, constituted violations of Sections 4731.22(B)(5), (B)(15), (B)(20) and/or (B)(26), Ohio Revised Code.
- (5) On or about October 14, 2005, you entered into a Consent Agreement [2005 Consent Agreement] with the Board in lieu of formal proceedings based upon your violations of Sections 4731.22 (B)(26), (B)(15), (B)(5) and (B)(20), Ohio Revised Code. In the 2005 Consent Agreement, you admitted to the factual and legal allegations set forth in the Notice of Summary Suspension and Opportunity for Hearing dated May 18, 2005, including that, although you were convicted on or about October 16, 2001, in Xenia Municipal Court, Greene County, Ohio, of operating a motor vehicle while under the influence of alcohol as a second offense within six years, you failed to report said relapse to the Board until May of 2005, and, in fact, submitted Declarations of Compliance, on or about June 28, 2001, September 27, 2001, and December 29, 2001, claiming that you had been, and continued to be, compliant with the terms of your 1999 Board Order. Further, the factual allegations to which you admitted included that, on or about January 15, 2005, in Lewisburg, West Virginia, you were arrested for operating a vehicle while under the influence of alcohol, and, upon taking a breathalyzer test, you had a blood alcohol concentration of 0.108.

The 2005 Consent Agreement, a copy of which is attached hereto and fully incorporated herein, terminated the summary suspension of your certificate to practice medicine and surgery, permanently revoked said certificate, stayed the revocation and suspended your certificate for an indefinite period of time, but not less than three years, with interim monitoring requirements and conditions for reinstatement. Paragraph 3 of the 2005 Consent Agreement requires you to “abstain completely from the use of alcohol.” Paragraph 8 of the 2005 Consent Agreement requires you to attend A.A., N.A., or C.A. meetings no less than three times per week, in addition to at least one Caduceus meeting per week.

Despite the requirement set forth in Paragraph 3 of the 2005 Consent Agreement, on or about January 11, 2006, you reported to the Board’s Compliance Officer that you relapsed on alcohol in or about December of 2005. Further, despite the requirements set forth in Paragraph 8 of the 2005 Consent Agreement, you reported that you had not been attending any 12-step meetings. You further reported to the Board’s Compliance Officer that you had no plans to re-enter treatment, that you could stop drinking any time that you wanted, and that you were not in compliance with any portion of your 2005 Consent Agreement.

Your acts, conduct, and/or omissions as alleged in paragraph (5) above, individually and/or collectively, constitute a “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice,” as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) through (5) above, individually and/or collectively, constitute “[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice,” as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.

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

Douglas Paul Bosack, M.D.

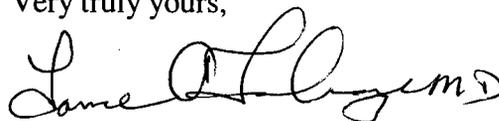
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consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand you or place you on probation.

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 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,



Lance A. Talmage, M.D.

Secretary

LAT/blt
Enclosures

CERTIFIED MAIL # 7003 0500 0002 4330 3815
RETURN RECEIPT REQUESTED

Duplicate Mailing:
Douglas Paul Bosack, M.D.
109 Blackbird Way
Lewisburg, WV 24901

CERTIFIED MAIL # 7003 0500 0002 4330 3808
RETURN RECEIPT REQUESTED

cc: Eric Plinke, Esq.
Porter, Wright, Morris & Arthur
41 South High Street
Columbus, OH 43215-6194

CERTIFIED MAIL # 7003 0500 0002 4330 3792
RETURN RECEIPT REQUESTED

STEP I
CONSENT AGREEMENT
BETWEEN
DOUGLAS PAUL BOSACK, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

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

Dr. Bosack 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)(5), 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 “[m]aking a false, fraudulent, deceptive, or misleading statement...in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine.”
- B. The Board is empowered by Section 4731.22(B)(15), 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 a “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice.”
- C. The Board is empowered by Section 4731.22(B)(20), 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 “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate, any provisions of this chapter or any rule promulgated by the Board.”
- D. The Board is empowered by Section 4731.22(B)(26), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for “impairment of

ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.”

- E. On or about May 18, 2005, the Board issued a Notice of Summary Suspension and Opportunity for Hearing to Dr. Bosack, a copy of which is attached hereto and fully incorporated herein.
- F. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violations of Sections 4731.22(B)(5), 4731.22(B)(15), 4731.22(B)(20), and 4731.22(B)(26), Ohio Revised Code, as set forth in the Notice of Summary Suspension and Opportunity for Hearing issued by the Board on or about May 18, 2005. The Board expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement.
- G. Dr. Bosack states, and the Board acknowledges, that his certificate to practice medicine and surgery in the State of Ohio, License #35-048959, is currently suspended pursuant to the terms of the Order of Summary Suspension issued by the Board on or about May 18, 2005, referenced in Paragraph E, above.
- H. Dr. Bosack states that his license to practice medicine and surgery in the State of West Virginia was revoked, effective May 27, 2005.
- I. Dr. Bosack states that he holds no other licenses to practice medicine and surgery.
- J. Dr. Bosack admits to the factual and legal allegations set forth in the Notice of Summary Suspension and Opportunity for Hearing issued on or about May 18, 2005.

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

SUMMARY SUSPENSION TERMINATED AND SUSPENSION OF CERTIFICATE IMPOSED

1. The summary suspension of Dr. Bosack's certificate to practice medicine and surgery in the State of Ohio, which was imposed by Order of the Board on May 18, 2005, is hereby terminated. Further, Dr. Bosack's certificate to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

Such revocation is STAYED, and Dr. Bosack's certificate is SUSPENDED for an indefinite period of time, but not less than three years.

Sobriety

2. Dr. Bosack 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. Bosack's history of chemical dependency and who is Dr. Bosack's treating physician.
3. Dr. Bosack shall abstain completely from the use of alcohol.

Releases; Quarterly Declarations and Appearances

4. Dr. Bosack 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. Bosack'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. 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. Bosack further agrees to provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.
5. Dr. Bosack shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Consent Agreement becomes effective, provided that if the effective date is on or after the sixteenth day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
6. Dr. Bosack 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; Supervising Physician

7. Dr. Bosack shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Bosack shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

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

Within thirty days of the effective date of this Consent Agreement, Dr. Bosack shall submit to the Board for its prior approval the name of a supervising physician to whom Dr. Bosack 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. Bosack. Dr. Bosack 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. Bosack 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. Bosack must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Bosack 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. Bosack's quarterly declaration. It is Dr. Bosack's responsibility to ensure that reports are timely submitted.

Rehabilitation Program

8. Within thirty days of the effective date of this Consent Agreement, Dr. Bosack shall undertake and 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 and Caduceus no less than once a week. Substitution of any other specific program must receive prior Board approval.

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

CONDITIONS FOR REINSTATEMENT

9. The Board shall not consider reinstatement of Dr. Bosack's certificate to practice medicine and surgery until all of the following conditions are met:
 - a. Dr. Bosack shall submit an application for reinstatement, accompanied by appropriate fees, if any.
 - b. Dr. Bosack 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. Bosack has successfully completed any required inpatient treatment.
 - ii. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
 - iii. Evidence of continuing full compliance with this Consent Agreement.
 - iv. Two written reports indicating that Dr. Bosack's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-

approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Bosack. Prior to the assessments, Dr. Bosack 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. Bosack, and any conditions, restrictions, or limitations that should be imposed on Dr. Bosack's practice. The reports shall also describe the basis for the evaluator's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement.

- v. Evidence that Dr. Bosack has taken and successfully passed the special purpose examination (SPEX) as prepared by the federation of state medical boards of the United States, Inc.
- c. Dr. Bosack shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board or, if the Board and Dr. Bosack are unable to agree on the terms of a written consent agreement, then Dr. Bosack further agrees to abide by any terms, conditions and limitations imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Ohio Revised Code.

Further, upon reinstatement of Dr. Bosack'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. Any written consent agreement or Board Order reinstating Dr. Bosack's certificate to practice medicine and surgery in this state shall include a term of probation of at least five years. Moreover, upon termination of the consent agreement or Board Order, Dr. Bosack 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. Bosack has maintained sobriety.

REQUIRED REPORTING BY LICENSEE

- 11. Within thirty days of the effective date of this Consent Agreement, Dr. Bosack 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. Bosack 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 any professional license. Further, Dr. Bosack shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

12. Within thirty days of the effective date of this Consent Agreement, Dr. Bosack 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/she has privileges or appointments. Further, Dr. Bosack 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.

FAILURE TO COMPLY

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

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Bosack 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. Bosack 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. Bosack 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.

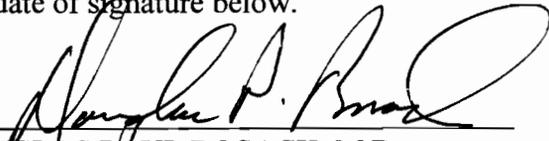
EFFECTIVE DATE

STEP I CONSENT AGREEMENT

Douglas Paul Bosack, M.D.

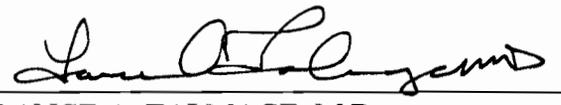
PAGE 8

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.



DOUGLAS PAUL BOSACK, M.D.

9-12-05
DATE



LANCE A. TALMAGE, M.D.
Secretary

10-14-05
DATE



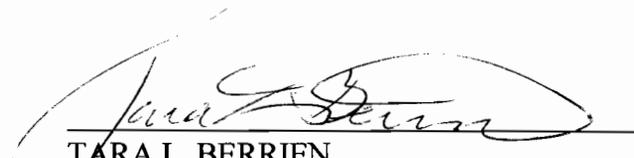
ERIC J. PLINKE
Attorney for Dr. Bosack

9/15/5
DATE



RAYMOND J. ALBERT
Supervising Member

10/12/05
DATE



TARA L. BERRIEN
Assistant Attorney General

10/12/05
DATE



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

May 18, 2005

Douglas Paul Bosack, M.D.
2250 List Street NW
Massillon, Ohio 44646

Dear Doctor Bosack:

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 May 18, 2005, 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

A handwritten signature in black ink, appearing to read "Lance A. Talmage, M.D.", is written over a horizontal line.

Lance A. Talmage, M.D., Secretary

LAT:blt
Enclosures

MAILED 5-19-05



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

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 May 18, 2005, 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 Douglas Paul Bosack, M.D., 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.

A handwritten signature in cursive script, reading "Lance A. Talmage, M.D.", is written over a horizontal line.

Lance A. Talmage, M.D., Secretary

(SEAL)

May 18, 2005

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF :
 :
DOUGLAS PAUL BOSACK, M.D. :

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 18th day of May, 2005.

Pursuant to Section 4731.22(G), Ohio Revised Code, and upon recommendation of Lance A. Talmage, M.D., 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 Douglas Paul Bosack, M.D., has violated Section 4731.22(B)(15) and 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. Bosack'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 18th day of May, 2005;

It is hereby ORDERED that the certificate of Douglas Paul Bosack, M.D., to practice medicine or surgery in the State of Ohio be summarily suspended.

It is hereby ORDERED that Douglas Paul Bosack, 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.

(SEAL)


Lance A. Talmage, M.D., Secretary

May 18, 2005
Date



State Medical Board of Ohio

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EXCERPT FROM DRAFT MINUTES OF MAY 18, 2005

CITATIONS, PROPOSED DENIALS AND ORDERS OF SUMMARY SUSPENSION

DOUGLAS PAUL BOSACK, M.D. – ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

.....

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

Vote:	Mr. Albert	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye

The motion carried.



State Medical Board of Ohio

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NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

May 18, 2005

Douglas Paul Bosack, M.D.
2250 List Street NW
Massillon, Ohio 44646

Dear Doctor Bosack:

The 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 Sections 4731.22(B)(15) and 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 (7), below.

Therefore, pursuant to Section 4731.22(G), Ohio Revised Code, and upon recommendation of Lance A. Talmage, M.D., 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 or 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 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 you or place you on probation for one or more of the following reasons:

- (1) On or about May 13, 1998, you entered into a Consent Agreement [1998 Consent Agreement] with the Board in lieu of formal proceedings based upon your violations of Sections 4731.22 (B)(5), (B)(13), (B)(19) and (B)(26), Ohio Revised Code. A copy of the 1998 Consent Agreement is attached hereto and fully incorporated herein. In the 1998 Consent Agreement, you made certain admissions, including that, from on or about May 16, 1994, through on or about June 12, 1994, you received treatment for alcohol dependency at the Hazelden Clinic in Center City, Minnesota, and that you subsequently relapsed by resuming alcohol use; that you were evaluated and/or treated at The Toledo Hospital in Toledo, Ohio, on or about August 30, 1996; that you were evaluated and/or treated at the Herrington

Clinic in West Allis, Wisconsin, from on or about September 8, 1996, to on or about September 12, 1996; that you were again evaluated and/or treated at The Toledo Hospital on or about October 3, 1996; and that you entered The Toledo Hospital's Level 1 Outpatient Program on October 7, 1996.

Pursuant to the 1998 Consent Agreement, your certificate to practice medicine and surgery was suspended for an indefinite period of time, but not less than three months, with interim monitoring requirements and conditions for reinstatement. Additionally, the 1998 Consent Agreement provided that, upon reinstatement, your certificate to practice medicine and surgery would be subject to certain probationary terms, conditions and limitations for a period of at least five years.

- (2) By letter dated October 14, 1998, the Board notified you that it proposed to determine whether or not to limit, revoke, permanently revoke, or suspend your certificate to practice medicine and surgery in Ohio, refuse to issue or reinstate your certificate, or to reprimand you or place you on probation due to allegations that your acts, conduct, and/or omissions, individually and/or collectively, constituted "[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, and constituted a "[v]iolation of the conditions of limitation placed by the board upon a certificate to practice," as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

On or about October 20, 1998, you submitted a written hearing request, and the matter came to hearing in front of an Attorney Hearing Examiner for the Board, on August 23, 1999. On or about October 28, 1999, the Attorney Hearing Examiner issued a Report and Recommendation In The Matter Of Douglas P. Bosack, M.D. Said Report and Recommendation included the following findings of fact:

Paragraph four of [your] May 13, 1998, Consent Agreement stated that [you] "shall abstain completely from the use of alcohol." Nonetheless, when ... stopped for a speeding violation on September 23, 1998, [you] admitted that [you] had been drinking alcohol. [You] had a Blood alcohol content of .150 and [were subsequently] convicted of Driving Under the Influence.

[You] notified the Board by letter dated September 23, 1998, that [you] had suffered a "recent relapse," having "resumed the use of alcohol within the past week." This letter was deceptive in that it significantly minimized the actual extent of [your] continued abuse of alcohol.

[You] signed [your] May 13, 1998, Consent Agreement on April 27, 1998, and it was ratified by the Board on May 13, 1998. On or about May 1, 1998, police officers responded to a 911 call placed from [your] residence. At that time, [your] breath smelled of alcohol and [you] admitted that [you] had been drinking alcohol.

- (3) On or about December 8, 1999, the Board entered an Order that adopted the Hearing Examiner's Report and Recommendation as amended, permanently revoked your certificate to practice medicine and surgery in the State of Ohio, stayed said permanent revocation, and suspended your certificate to practice medicine and surgery for an indefinite period of time, but not less than one year. A copy of the Board's December 8, 1999, Entry of Order [1999 Board Order] is attached hereto and fully incorporated herein.
- (4) On or about March 13, 2001, the Board reinstated your certificate to practice medicine and surgery in the State of Ohio, subject to specified probationary terms, conditions and limitations, for a period of seven years, as set forth in the 1999 Board Order. Paragraph 4(i) of the 1999 Board Order states that you "shall abstain completely from the use of alcohol."
 - (a) Despite the requirement set forth in Paragraph 4(i) of the 1999 Board Order, on or about June 2, 2001, in Greene County, Ohio, you were charged with operating a motor vehicle while under the influence of alcohol [OMVI] for having a blood alcohol concentration of 0.127. Further, on or about October 16, 2001, in Xenia Municipal Court, Greene County, Ohio, you were convicted of OMVI as a second offense within six years. You failed to report to the Board your June 2001 relapse until May of 2005 when you responded to The State Medical Board of Ohio's First Set of Interrogatories Directed to Douglas Paul Bosack, M.D. [2005 Interrogatories].
 - (b) Despite the requirement set forth in Paragraph 4(i) of the 1999 Board Order, on or about March 31, 2005, you reported to the Board that you were arrested on or about January 15, 2005, in Lewisburg, West Virginia, and charged with operating a vehicle while under the influence of alcohol [OVI]. Further, on or about April 12, 2005, you advised representatives of the Board that, on or about January 15, 2005, prior to your arrest for OVI, you attended a wine tasting party and voluntarily consumed alcohol, that, upon taking a breathalyzer test after you were arrested, you had a blood alcohol concentration of 0.108, and that you had consumed alcohol on two other occasions during the week prior to January 15, 2005.
- (5) Paragraph 4(d) of the 1999 Board Order states that you shall submit quarterly declarations, under penalty of Board disciplinary action or criminal prosecution,

stating whether there has been compliance with all the conditions of your 1999 Board Order.

Although, you submitted Declarations of Compliance, on or about June 28, 2001, September 27, 2001, and December 29, 2001, claiming that you had been, and continued to be, compliant with the terms of your 1999 Board Order, you, in fact, were not in compliance with the terms of your 1999 Board Order, because you failed to abstain from the consumption of alcohol, as required in Paragraph 4(i), and you failed to obey all state and local laws as required in Paragraph 4(b).

- (6) Interrogatory number (5) of the 2005 Interrogatories asked you to provide the date and circumstances surrounding each occasion on which you had relapsed. In response to Interrogatory number (5) you stated the following:

With one exception, it is impossible for me to list precisely the date of each and every relapse which I have had since 1993 because of the frequency of the same. The one exception relates to a relapse which occurred on or about January 15, 2005, in Lewisburg, West Virginia, when I was arrested and charged with the offense of Driving Under the Influence [.]

- (7) 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)(a), Ohio Administrative Code, provides that an individual's relapse during or following treatment shall constitute independent proof of impairment and shall support license suspension or denial without the need for an examination.

Your acts, conduct, and/or omissions as alleged in paragraphs (4) and (5) above, individually and/or collectively, constitute a "[v]iolation of the conditions of limitation placed by the board upon a certificate to practice," as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (5) above, individually and/or collectively, constitute “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) through (7) 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.

Further, your acts, conduct, and/or omissions as alleged in paragraph (4)(a) above, individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-15-01(A), Ohio Administrative 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 in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty 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 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

Notice of Summary Suspension
& Opportunity for Hearing
Douglas Paul Bosack, M.D.
Page 6

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,



Lance A. Talmage, M.D.
Secretary

LAT/blt
Enclosures

CERTIFIED MAIL # 7003 0500 0002 4340 6745
RETURN RECEIPT REQUESTED

Duplicate Mailing:

Douglas Paul Bosack, M.D.
506 East Washington Street
Lewisburg, WV 24901

CERTIFIED MAIL # 7003 0500 0002 4340 6738
RETURN RECEIPT REQUESTED



State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

December 8, 1999

Douglas P. Bosack, M.D.
6010 Oakwood Drive, Apt. 4L
Lesle, IL 60532

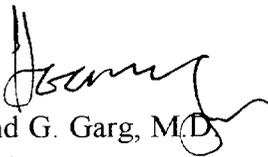
Dear Doctor Bosack:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Daniel Roberts, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on December 8, 1999, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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

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

THE STATE MEDICAL BOARD OF OHIO


Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. Z 233 896 630
RETURN RECEIPT REQUESTED

cc: Douglas E. Graff, Esq.
CERTIFIED MAIL RECEIPT NO. Z 233 896 631
RETURN RECEIPT REQUESTED

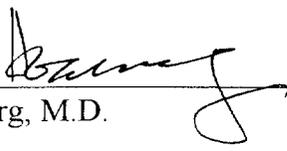
Mailed 12/23/99

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Daniel Roberts, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on December 8, 1999, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Douglas P. Bosack, 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.

(SEAL)



Anand G. Garg, M.D.
Secretary

DECEMBER 8, 1999
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

DOUGLAS P. BOSACK, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on December 8, 1999.

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

It is hereby ORDERED that:

1. The certificate of Douglas P. Bosack, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Dr. Bosack's certificate is SUSPENDED for an indefinite period of time, but not less than one year.
2. For the duration of the suspension period, Dr. Bosack shall be subject to the following terms, conditions, and limitations:
 - a. Dr. Bosack shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in the state in which he is practicing.
 - b. Dr. Bosack shall appear in person for interviews before the full Board or its designated representative within three months of the effective date of this Order and as otherwise requested by the Board.

- c. Dr. Bosack shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the terms of this Order. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Order becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
- d. At the time he submits his quarterly declarations, Dr. Bosack shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended drug and/or alcohol treatment.
- e. At the time he submits his quarterly declarations, Dr. Bosack shall provide the Board with acceptable documentation evidencing participation in an alcohol and drug rehabilitation program, such as AA, NA, or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.
- f. At the time he submits his quarterly declarations, Dr. Bosack shall provide the Board with acceptable documentation evidencing continued compliance with the terms of the contract entered into with the impaired physicians committee, approved by the Board, provided that where the terms of the aftercare contract conflict with the terms of this Order, the terms of this Order shall control.
- g. Dr. Bosack shall provide continuing 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. Bosack's chemical dependency and related conditions, to the Board, to treating and monitoring physicians, and to others involved in the monitoring process. Dr. Bosack shall also provide the Board written consent permitting any treatment provider from whom Dr. Bosack 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.
- h. Dr. Bosack shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Dr. Bosack's history of chemical dependency.

- i. Dr. Bosack shall abstain completely from the use of alcohol.
- j. Dr. Bosack shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board, at Dr. Bosack's expense. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Dr. Bosack shall submit the required urine specimen to a supervising physician previously approved by the Board. The supervising physician shall ensure that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the Board of any positive screening results.

Dr. Bosack shall ensure that the supervising physician provides quarterly reports to the Board, on forms approved or provided by the Board, verifying whether all screens have been conducted in compliance with this Order, whether all 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. Bosack must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Bosack shall further ensure that the previously designated supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor.

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

- k. Within thirty days of the effective date of this Order, Dr. Bosack shall submit to the Board for its prior approval the name of a supervising physician to whom Dr. Bosack shall submit the required urine specimens.
- l. Dr. Bosack shall submit blood and/or urine specimens for analysis without prior notice at such times as the Board may request, at Dr. Bosack's expense.
- m. Dr. Bosack shall notify the Board of any action in any state taken against a certificate to practice held by Dr. Bosack in that state. Moreover, Dr. Bosack shall provide acceptable documentation verifying the other state board's actions.

3. The Board shall not consider reinstatement of Dr. Bosack's certificate to practice unless all of the following minimum requirements have been met:

- a. Within ninety days of the effective date of this Order, or as otherwise approved by the Board, Dr. Bosack shall submit to appropriate treatment, as determined by an informed assessment of his current needs. Such assessment and treatment shall be provided by a treatment provider approved under Section 4731.25 of the Revised Code for treatment of drug and alcohol dependency.

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

- i. A detailed plan of recommended treatment based upon the treatment provider's informed assessment of Dr. Bosack's current needs;
 - ii. A statement indicating that Dr. Bosack has entered into or commenced the recommended treatment program within forty-eight hours of its determination;
 - iii. A copy of a treatment contract signed by Dr. Bosack establishing the terms of treatment and aftercare, including any required supervision or restrictions on practice during treatment or aftercare; and
 - iv. A statement indicating that the treatment provider will immediately report to the Board any failure by Dr. Bosack to comply with the terms of the treatment contract during inpatient or outpatient treatment or aftercare.
- b. Within thirty days of the effective date of this Order, Dr. Bosack shall contact an appropriate impaired physicians committee, approved by the Board, to arrange for assistance in recovery and/or aftercare.
 - c. At the time he submits his application for reinstatement, Dr. Bosack shall provide the Board with evaluations from a minimum of two physicians acceptable to the Board stating that Dr. Bosack is no longer drug or alcohol dependent and is able to practice according to acceptable and

- prevailing standards of care. Each of these evaluations shall be in writing and shall state with particularity the bases for such determination.
- d. Upon submission of his application for reinstatement, Dr. Bosack shall provide the Board with certification from a treatment provider approved under Section 4731.25 of the Revised Code, that Dr. Bosack has successfully completed any required inpatient treatment and is in continuing full compliance with regard to any required outpatient treatment and/or aftercare.
 - e. In the event that Dr. Bosack 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 His fitness to resume practice.
4. Upon reinstatement, Dr. Bosack's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least seven years:
- a. Dr. Bosack shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations.
 - b. Dr. Bosack shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in the state in which he is practicing.
 - c. Dr. Bosack shall appear in person for interviews before the full Board or its designated representative within three months of the date in which probation becomes effective and upon his request for termination of the probationary period, or as otherwise requested by the Board.
 - d. Dr. Bosack shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of probation. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which probation becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

- e. Dr. Bosack shall notify the Board of any action in any state taken against a certificate to practice held by Dr. Bosack in that state. Moreover, Dr. Bosack shall provide acceptable documentation verifying the other state board's actions.
- f. If Dr. Bosack violates probation in any respect, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period.
- g. Periods of time during which Dr. Bosack's certificate to practice medicine and surgery is inactive due to nonpayment of renewal fees will not apply to the reduction of the probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
- h. Dr. Bosack shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Dr. Bosack's history of chemical dependency.
- i. Dr. Bosack shall abstain completely from the use of alcohol.
- j. Dr. Bosack shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Dr. Bosack shall submit the required urine specimens to the supervising physician approved by the Board prior to Dr. Bosack's reinstatement. 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.

Dr. Bosack shall ensure that the supervising physician provides quarterly reports to the Board, on forms approved or provided by the Board, verifying whether all screens have been conducted in compliance with this Order, whether all 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. Bosack must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Bosack shall further

ensure that the previously designated supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor.

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

- k. At the time he submits his quarterly declarations, Dr. Bosack shall provide the Board with acceptable documentation evidencing participation in an alcohol and drug rehabilitation program, such as AA, NA, or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.
- l. Dr. Bosack shall submit blood and/or urine specimens for analysis without prior notice at such times as the Board may request, at Dr. Bosack's expense.
- m. At the time he submits his quarterly declarations, Dr. Bosack shall provide the Board with acceptable documentation evidencing continued compliance with the terms of the aftercare contract, provided that where the terms of the aftercare contract conflict with the terms of this Order, the terms of this Order shall control.
- n. At the time he submits his quarterly declarations, Dr. Bosack shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended drug and/or alcohol treatment.
- o. Dr. Bosack shall provide continuing 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. Bosack's chemical dependency or related conditions, 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. Dr. Bosack shall also 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.
- p. If any declaration or report required by this Order is not received in the Board's offices on or before its due date, Dr. Bosack shall cease practicing medicine beginning the day following Dr. Bosack's receiving notice from the Board of non-receipt, either by writing, telephone, or by personal

contact, until the declaration or report is received in the Board offices. Any practice during this time period shall be considered unlicensed practice of medicine in violation of Section 4731.41, Ohio Revised Code.

- q. If, without permission from the Board, Dr. Bosack fails to submit to random screenings for drugs and or alcohol, at least as frequently as required by this Order, Dr. Bosack shall cease practicing medicine beginning the day following Dr. Bosack's receiving notice from the Board of the violation and shall refrain from practicing medicine for thirty days. Practice during this time period shall be considered unlicensed practice in violation of Section 4731.41, Ohio Revised Code.
- r. Dr. Bosack shall refrain from commencing practice in Ohio without prior written Board approval. Moreover, prior to commencing practice in Ohio, the Board may require that Dr. Bosack comply with additional terms, conditions, or limitations, including the following:

- i. Dr. Bosack's practice shall be limited to a supervised structured environment in which Dr. Bosack's activities will be directly supervised and overseen by the monitoring physician approved by the Board prior to Dr. Bosack's reinstatement. The monitoring physician shall monitor Dr. Bosack and provide the Board with reports on Dr. Bosack's progress and status on a quarterly basis. All monitoring physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Bosack's quarterly declaration. It is Dr. Bosack's responsibility to ensure that the reports are timely submitted.

Dr. Bosack shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

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

- ii. In the event that Dr. Bosack should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Bosack must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not

apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled

- iii. Dr. Bosack shall provide a copy of this Order by certified mail to all employers or entities with which he applies or contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where Dr. Bosack applies for or obtains privileges or appointments. Further, Dr. Bosack shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt
- iv Dr. Bosack shall provide a copy of this Order by certified mail, return receipt requested, at the 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. Bosack shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

s If Dr Bosack violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may set aside the stay order and impose the Permanent Revocation of Dr Bosack's certificate.

5 Upon successful completion of probation, as evidenced by a written release from the Board, Dr Bosack's certificate will be fully restored

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

(SEAL)



Anand G Garg, M D
Secretary

DECEMBER 8, 1999
Date

STATE MEDICAL BOARD
10/23/99 P 3 07

**REPORT AND RECOMMENDATION
IN THE MATTER OF DOUGLAS P. BOSACK, M.D.**

The Matter of Douglas P Bosack, M D , was heard by Daniel Roberts, Attorney Hearing Examiner for the State Medical Board of Ohio, on August 23, 1999

INTRODUCTION

I Basis for Hearing

A By letter dated October 14, 1998, the State Medical Board of Ohio [Board] notified Douglas P Bosack, M D , that it had proposed to determine whether to take disciplinary action against his certificate to practice medicine and surgery in Ohio The Board based its proposed action on the following allegations

1 On or about May 13, 1998, Dr Bosack entered into a Consent Agreement with the Board in lieu of formal proceedings based upon his violation of Sections 4731 22(A), (B)(5), (B)(13), (B)(19), and (B)(26), Ohio Revised Code

In the Consent Agreement, Dr Bosack made certain admissions, including that from May 16, 1994, to June 12, 1994, he received treatment for chemical dependency on alcohol at the Hazelden Clinic in Center City, Minnesota, and that he subsequently relapsed by resuming alcohol use, that he was thereafter evaluated and/or treated at The Toledo Hospital in Toledo, Ohio, on August 30, 1996, at the Herrington Clinic in West Allis, Wisconsin, from September 8, 1996, to September 12, 1996, again at The Toledo Hospital on October 3, 1996, that he entered The Toledo Hospital's Level 1 Outpatient Program on October 7, 1996

In the Consent Agreement, Dr Bosack also agreed with the Board to the suspension of his certificate to practice medicine and surgery for an indefinite period of time, but not less than three months, with interim monitoring requirements and conditions for reinstatement Additionally, this Consent Agreement provided that, upon reinstatement, his certificate to practice medicine and surgery would be subject to certain probationary terms, conditions and limitations for a period of at least five years

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- 2 Paragraph four of the Consent Agreement stated that Dr Bosack “shall abstain completely from the use of alcohol ”

Nonetheless, when Dr Bosack was stopped for a speeding violation on or about September 23, 1998, at approximately 2 00 a m , he admitted that he had been drinking alcohol Dr Bosack was subsequently charged with driving while under the influence of alcohol (DUI) after it was determined that he had a breath alcohol content of 150

Additionally, Dr Bosack notified the Board by letter dated September 23, 1998, that he had suffered a “recent relapse,” having “resumed the use of alcohol within the past week ”

- 3 Dr Bosack signed the above-referenced Consent Agreement on April 27, 1998, and it was ratified by the Board on May 13, 1998 On or about May 1, 1998, an officer and two sergeants with the Sylvania Township Police Department responded to a 911 call placed from Dr Bosack’s residence At that time, Dr Bosack’s breath smelled of alcohol and he admitted that he had been drinking alcohol and that he had been choking the woman who had placed the 911 call

The Board alleged that Dr Bosack’s acts, conduct, and/or omissions as alleged in paragraph two above, individually and/or collectively, constitute a “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice or violation of the conditions of limitation upon which a limited or temporary registration or certificate to practice is issued,” as that clause is used in Section 4731 22(B)(15), Ohio Revised Code ”

The Board further alleged that Dr Bosack’s acts, conduct, and/or omissions as alleged in paragraphs one, two, and three 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 ”

Accordingly, the Board advised Dr Bosack of his right to request a hearing in this matter (State’s Exhibit 1A)

- B On October 20, 1998, Douglas E Graff, Esq , submitted a written hearing request on behalf of Dr Bosack (State’s Exhibit 1B)

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II Appearances

- A On behalf of the State of Ohio Betty D Montgomery, Attorney General, by Anne Berry Strait, Assistant Attorney General
- B On behalf of the Respondent Douglas E Graff, Esq

EVIDENCE EXAMINED

I Testimony Heard

Douglas P Bosack, M D , testified on behalf of the state as if on cross examination and also on his own behalf

II Exhibits Examined

A Presented by the State

- 1. State's Exhibits 1A-1T Procedural exhibits
- 2. State's Exhibit 2 and 2A-2D Stipulations entered into by counsel for the parties with attachments The following attachments are included
 - a Copy of May 13, 1998, Consent Agreement between Douglas P Bosack, M D , and the Board
 - b Certified copies of September 23, 1998, arrest record, citation, and BAC DataMaster results related to Dr Bosack's arrest for DUI on that date
 - c Copy of the October 1, 1998, Sylvania Municipal Court docket sheet reflecting Dr Bosack's conviction for DUI
 - d Copy of Dr Bosack's September 23, 1998, letter to the Board
- 3. State's Exhibit 3 Certified copy of the August 13, 1998, minutes of the Board concerning Dr Bosack

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- * 4 State's Exhibit 4 Copy of medical records from Talbott Recovery Campus, Atlanta, Georgia [Talbott] pertaining to Dr Bosack covering the period November 24, 1998, to January 26, 1999
- * 5 State's Exhibit 5 March 31, 1999, letter to the Board from Jeffrey Sanders, LMSW, Case Manager, St Jude's Recovery Center, Inc , Atlanta, Georgia
- * 6 State's Exhibit 6 Copy of May 5, 1999, letter to Douglas Graff, Esq from Mr Sanders
- * 7 State's Exhibit 7 Copy of August 18, 1999, facsimile to Mr Graff from Mr Sanders containing a discharge summary for Dr Bosack

B Presented by the Respondent

- 1 Respondent's Exhibit A Dr Bosack's curriculum vitae
 - 2 Respondent's Exhibit B Copy of December 23, 1998, Advocacy Contract between Dr Bosack and the Ohio Physicians Effectiveness Program
 - * 3 Respondent's Exhibit C Certified copy of discharge summary from Hazelden Foundation, Center City, Minnesota, pertaining to Dr Bosack
 - * 4 Respondent's Exhibit D Copy of discharge summary and other evaluation records from The Toledo Hospital
 - * 5 Respondent's Exhibit E Copy of August 18, 1999, Continuing Care Contract between Dr Bosack and Talbott
 - * 6 Respondent's Exhibit F Copy of medical records from Talbott pertaining to Dr Bosack covering the period August 2-18, 1999
 - * 7 Respondent's Exhibit G Copy of October 4, 1999, letter to Douglas Graff, Esq , from Rafael Rios, Director, TLC Supportive Living Systems, Lisle, Illinois
- * Note Exhibits marked with an asterisk are sealed to protect patient confidentiality

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PROCEDURAL MATTERS

By letter dated October 13, 1999, counsel for the Respondent requested that the record be reopened for the admission of an additional exhibit. Without objection from counsel for the State, this request was granted. The record was subsequently closed on October 18, 1999.

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 Douglas P Bosack, M D , graduated from the University of Cincinnati College of Medicine in 1978. He completed internship and residency in 1981 at Henry Ford Hospital in Detroit. Dr Bosack also completed a fellowship in cardiology at Henry Ford Hospital in 1983. (Transcript [Tr] at 17-19, Respondents Exhibit [Res Ex] A)

Dr Bosack testified that he had accepted a position with the Toledo Clinic in 1983 and was in practice there for fifteen years. Dr Bosack described The Toledo Clinic as a multi-specialty practice group of about 100 members including himself. Dr Bosack specialized in cardiology, and performed diagnostic cardiocatheterizations, intensive care, temporary pacemakers and similar work. Dr Bosack further testified that he had primarily practiced at Flower Hospital in Sylvania and at Toledo Hospital. (Tr 19-20, 30, 77)

- 2 Dr Bosack testified that he had first begun drinking when he was sixteen. He commented that, in retrospect, drinking had been a problem right from the start. He observed that during college he probably drank more than his friends but that he couldn't identify adverse affects. He further observed that during medical school he had married, fathered a child, and his drinking tapered off. Dr Bosack recalled that during his residency he would sometimes drink too much at hospital functions, embarrassing his wife. However, he commented that it didn't appear to be a big problem. Dr Bosack testified that he never drank at home until near the end of his residency. (Tr 20-21, 73-77)

Dr Bosack testified that his wife did not work outside the home after they moved to Toledo. He described her as being very intelligent and wanting to have a career. According to Dr Bosack, his wife developed an interest in a career in interior decorating towards the end of the 1980's. The Bosacks built a new \$800,000 home, which was to be used in part as a showroom for her business. Dr Bosack testified that investments in Mrs Bosack's business led to significant additional financial and marital stress.

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Dr Bosack testified that in spite of the fact he was earning \$400,000 per year they were having trouble making ends meet Dr Bosack explained that this stress, compounded by his bipolar disorder, led to escalation of both marital conflict and his use of alcohol Dr Bosack testified that he had never had a real problem with his drinking until the late 1980's or early 1990's when it became an issue with his wife because he would drink at home at night, play music too loudly, and otherwise be disruptive when the children were trying to sleep The Bosacks separated in 1993 (Tr 21-22, 73, 77-82)

Dr Bosack testified that he had been diagnosed with bipolar disorder in 1987 He further testified that he had been prescribed Nardil and group therapy Dr Bosack entered group therapy in Toledo with Mr Stephen Bowles and has continued to see Mr Bowles on an individual basis since that time Dr Bosack admitted at hearing that he had ignored the warning on the Nardil bottle not to drink alcohol while taking the drug Dr Bosack testified that, looking back at his behavior, that he had been hypomanic the whole time he was on Nardil. (Tr 22-25)

Dr Bosack testified that he continues to take Nardil today and was also subsequently placed on Depakote while at the Talbott Recovery Campus [Talbott] He explained that the Nardil helps with depression but may actually aggravate mania The Depakote serves to keep him on an even keel by bringing down manic episodes (Tr 24, 100)

- 3 Dr Bosack testified that he first entered alcohol treatment in 1994 He explained that his decision to enter treatment had been prompted by the separation from his wife which had "devastated" him Dr Bosack noted that he and his wife had been together since they had been seventeen years old Dr Bosack explained that he was depressed, unable to work, and obsessed with finding out about who his wife was seeing His drinking escalated Dr Bosack took a six week leave of absence in late 1993 It was during this time that he was arrested for forcing his way into the former marital home After this incident his psychiatrist insisted that he seek inpatient treatment, and even made the airline reservations for him Whereupon, Dr Bosack entered the Hazelden Foundation in Center City, Minnesota (Tr 25-27, 82-83, Res Ex C)

Dr Bosack described the Hazelden treatment as a twenty eight day inpatient program He testified that the program was short compared to what he has been through since, but that it did help him The Hazelden staff diagnosed Dr Bosack as "Chemically dependent to alcohol, continuous pattern" and suffering from "Atypical depression, recurrent History of bipolar disorder" Hazelden staff described Dr Bosack as having been cooperative and having progressed satisfactorily in inpatient treatment They noted in his discharge summary that he had agreed to follow their aftercare recommendations and maintain contact with them about his recovery However, Dr Bosack left Hazelden on June 12,

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1994, still believing that he did not have a problem with alcohol (Tr 27-29, 85-87, Res Ex C)

- 4 Dr Bosack testified that he returned from Hazelden to the same turmoil concerning his separation from his wife Dr Bosack further testified that his wife had by this time filed for divorce and invited a boyfriend to live in the former marital home Dr Bosack explained that in the course of this turmoil he violated the restraining order his wife had obtained after his first arrest Dr Bosack described the police attitude as generous the first few times he violated the restraining order Eventually, rather than calming him down and escorting him home the police again arrested him (Tr 28-29, 82-87)

Dr Bosack testified that the conflict surrounding his divorce continued after the divorce was finalized in 1995 He explained that the marital home was not sold until the fall of 1996 and his former wife continued to live there with the children and an adult male At the same time Dr Bosack was continuing to make the mortgage payments This situation exacerbated Dr Bosack's anger (Tr 88-90)

- 5 Dr Bosack testified that physicians on the executive committee of the Toledo Clinic were aware of his treatment at Hazelden He explained that he had returned to work in December 1993 and continued working until his license was suspended in May 1998 Dr Bosack testified that rumors that he was still drinking reached Elan Elliot, M D , and the executive committee in 1996 Dr Elliot and the committee insisted that he re-enter alcohol treatment At that time, Dr Bosack told his fellow physicians that this was crazy, that he never drank during the day and had never had problems at work At hearing, Dr Bosack described himself as having been in total denial at that time However he had agreed to be evaluated at the Herrington Center in Wisconsin They recommended, and Dr Bosack agreed to enter, treatment at the Toledo Hospital At hearing, Dr Bosack noted that by this time he was deep in debt and wanted to return to Toledo to continue practicing (Tr 29-31, 37-38, 90, State's Exhibits [Sts Exs] 2 and 2A)

In compliance with the Herrington recommendations, Dr Bosack entered outpatient treatment at the Toledo Hospital on November 4, 1996 Dr Bosack testified at hearing, that The State Medical Board of Ohio [Board] was notified at that time that he was impaired On August 3, 1998, Lurley Archambeau, M D , advised Dr Bosack's Attorney, Douglas E Graff that Dr Bosack completed that program on July 3, 1997 The Toledo program had recommended total abstinence as well as a variety of other aftercare strategies Dr Archambeau reported in his August 3, 1998, letter that Dr Bosack was "in full compliance with the recommendations of Toledo Hospital ADTC" Dr Bosack admitted at hearing that he never quit consuming alcohol Dr Bosack described the Toledo program as being very low key, consisting of meeting two hours a day, three days

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a week. Dr. Bosack opined that the problem with the Toledo program was that it did not address character defects, personality traits, or problems on an individualized basis (Tr 31-32, 87-88, 90-91, Sts Exs 2 and 2A, Res Ex D)

6 Dr. Bosack testified that he first became involved with the Ohio Physicians Effectiveness Program [OPEP] in December 1996. Dr. Bosack entered into an advocacy contract with OPEP on December 23, 1996. Dr. Bosack testified that among other requirements of the contract he was to abstain from the use of alcohol and submit to urine screens. However, he continued to drink alcohol. Dr. Bosack pointed out that, because the half-life of alcohol in urine is so short and the random testing was weekly, he knew if he was tested on Monday he could drink for a few days without risking detection. Dr. Bosack testified that he attended the required three AA meetings per week. Dr. Bosack further testified that he tried to stop drinking but never worked the twelve steps until he got to Talbott. Dr. Bosack explained that he always told himself that he was going to try and adhere to the OPEP contract but never did. Until arriving at Talbott he was never abstinent for more than one week at a time (32-37, 92, Res Ex B, Sts Exs 2 and 2A)

7 On April 27, 1998, Dr. Bosack signed a Consent Agreement with the Board in lieu of formal proceedings based upon his violation of Sections 4731.22(A), (B)(5), (B)(13), (B)(19), and (B)(26), Ohio Revised Code. The Consent Agreement was ratified by the Board on May 13, 1998 (Tr 37-39, Sts Exs 2 and 2A)

In his May 13, 1998, Consent Agreement, Dr. Bosack admitted that he was evaluated and/or treated for alcohol dependency at

- the Hazelden Foundation from May 16 to June 12, 1994
 - the Toledo Hospital in Toledo, Ohio, on August 30, 1996
 - the Herrington Clinic in Wisconsin, from September 8 to September 12, 1996
 - the Toledo Hospital from October 3, 1996, to July 3, 1997
- (Tr 92-93, Sts Exs 2 and 2A, Resp Ex D)

In his May 13, 1998, Consent Agreement, Dr. Bosack also agreed to the suspension of his certificate to practice medicine and surgery for an indefinite period of time, but not less than three months, with interim monitoring requirements and conditions for reinstatement. Additionally, the Consent Agreement provided that, upon reinstatement, his certificate to practice medicine and surgery would be subject to certain probationary terms, conditions and limitations for a period of at least five years. Dr. Bosack testified that he had expected to have his license restored in three months. Paragraph four of the Consent Agreement stated that Dr. Bosack "shall abstain completely from the use of alcohol."

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Dr Bosack testified that he had intended to try to quit drinking alcohol but had not believed he would be able to quit (Tr 92-93, Sts Exs 2 and 2A)

Dr Bosack testified that he had continued to attend AA meetings during the summer of 1998 but was unsure if he had attended three per week He noted that it felt odd and was a conflict for him because he was still drinking that summer Dr Bosack further commented that at that time he was unable to accept the idea of not using alcohol to fill a void in his life (Tr 39-40)

On August 13, 1998, Dr Bosack made his first personal appearance before the Board pursuant to his May 13, 1998, Consent Agreement Dr Bosack testified that no one on the Board directly asked him if he was still drinking Dr Bosack described himself at that time as having been in denial and deceitful He further commented that at the time he did not understand the seriousness of his drinking or believe he was hurting his patients He also commented that he had known that, even though he was trying not to drink, he couldn't stop (39-42, 93-95, Sts Ex 3)

On May 1, 1998, after Dr Bosack had signed the Consent Agreement, but prior to the Board's ratification, officers of the Sylvania Township Police Department responded to a 911 call placed from Dr Bosack's residence At that time, Dr Bosack's breath smelled of alcohol and he admitted that he had been drinking alcohol Dr Bosack testified that he did not attempt to hide his drinking in spite of his Consent Agreement with the Board (Tr 93-94, Sts Exs 2 and 2A)

- 8 On September 23, 1998, Dr Bosack was stopped for a speeding violation He admitted at that time that he had been drinking alcohol Dr Bosack was subsequently charged with driving while under the influence of alcohol (DUI) It was determined that he had a breath alcohol content of 150 At hearing, Dr Bosack testified that he had pled guilty or no contest to the charge and was found guilty Dr Bosack testified that he felt his DUI conviction was a gift from God because if it had not occurred he would still be out there "screwing around" and "trying to deceive his way through" As a result of this incident, Dr Bosack wrote a letter to the Board, dated September 23, 1998, advising that he had suffered a "recent relapse," having "resumed the use of alcohol within the past week" Dr Bosack admitted at hearing that this letter untruthfully minimized the extent of his continued drinking of alcohol (Tr 42-43, 69, 94-95, Sts Exs 2 and 2A-2D)

Dr Bosack testified that prior to being arrested for DUI he applied for the reinstatement of his license In this application he had included evaluations from Shepherd Hill in Newark and St Vincent's in Toledo saying that he was fit to return to practice

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Dr. Bosack commented that he had lied to these evaluators, but not very effectively as they still had suspicions about his status. (Tr. 45-46)

- 9 Dr. Bosack testified that he had entered treatment at Talbott in November 1998. He commented that things did not go smoothly at Talbott but that in the long run this was good because it resulted in his eventually being sent to St. Jude's in Atlanta. Dr. Bosack further commented that being sent to St. Jude's was probably the best thing that has ever happened to him. Dr. Bosack explained that he was fearful that Talbott could not help him. He further explained that, at Hazelden, he had not been serious about his recovery, and the program did not help him with his drinking but that at Talbott he was frightened. He commented that he "wanted to be fixed, changed, and [he] didn't think [Talbott] could do it." (Tr. 46-47, 96)

During Dr. Bosack's treatment at Talbott between November 1998 and January 1999, Talbott staff identified five primary problems for Dr. Bosack. These were Addictive Disease, Relationship Dysfunction, Emotional Dysfunction, Limited Spirituality, and Minor Medical Problems. The January 26, 1999, Talbott Discharge Summary covers the period from Dr. Bosack's arrival at Talbott to his transfer to St. Jude's. Talbott's final assessment at that time was that

Throughout his treatment at [Talbott], Dr. Bosack struggled to identify specific ways he could use the steps to address issues on a consistent basis. He appeared to accept the disease concept on an intellectual level, but wrestled with it emotionally. He had significant difficulty internalizing the ideas of powerless[ness] and, at times, appeared to take great pride in his rebelliousness. He was challenged to look at how his self-will was a problem in terms of recovery, but he seems to remain invested in justifying his behaviors despite understanding how they undermined his recovery. This seemed to be a direct reflection of his significant feelings of inadequacies and insecurity. Dr. Bosack made it clear that he felt he needed recovery, but had difficulty changing his behavior on a consistent basis. He identified feelings of shame and guilt associated with how his using has effected other people, particularly his son.

(Sts. Ex. 4)

The Discharge Summary also noted

[Dr. Bosack] was placed on female restriction after he behaved inappropriately with a female in treatment. He was also placed on a

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probation contract which he eventually violated. This led to the recommendation to transfer him to St. Jude's for further treatment. He was compliant with the recommendation to go to St. Jude's despite feeling that the staff was giving him an inappropriate recommendation.

(Sts Ex 4)

Dr. Bosack testified that he was kicked out of Talbott and sent to St. Jude's because the staff saw in him immature behavior, some mania, rule breaking, and defiance of authority. Dr. Bosack commented that some of the Talbott rules were very petty. He explained that they are designed to challenge the patient and that he did not adhere to them. Dr. Bosack cited as examples his failure to arrive on time for meetings and his decision to ignore the buddy system and go about by himself. Dr. Bosack commented that in many ways he acted like an adolescent. Dr. Bosack testified that while he was often breaking the rules he was also making progress at Talbott. He further testified that the staff would threaten him with being sent to St. Jude's. Dr. Bosack testified that because of false rumors that he was "seeing" a female patient he was placed on a restriction which prohibited him from speaking to female patients. Dr. Bosack explained that his speaking to a female patient in violation of this restriction was "kind of the last straw" that resulted in his being sent to St. Jude's. Dr. Bosack testified that he viewed his transfer from Talbott to St. Jude's as punishment when it occurred in January 1999. (Tr 47-51, 58-59, 96-97, Sts Ex 4)

Dr. Bosack described St. Jude's as an inner city program located in an renovated hotel in downtown Atlanta. Dr. Bosack testified that probably 75% of the residents are crack addicts from the streets of Atlanta. The remaining 25% are people, like Dr. Bosack, transferred from Talbott. Dr. Bosack explained that St. Jude's program includes more discipline than Talbott's. Household services at St. Jude's are performed by the patients themselves. Dr. Bosack testified that during the first thirty days at St. Jude's the patient is confined to the building or its parking lot. Dr. Bosack further testified that after the first thirty days patients are required to obtain employment to help defer their expenses. Dr. Bosack elaborated that he worked at Starbucks for five months while at St. Jude's. Dr. Bosack was transferred back to Talbott on August 11, 1999. (Tr 51-53, 96, Sts Exs 5-7)

Dr. Bosack testified that he really liked St. Jude's. He further testified that things really started to change for him after he arrived at St. Jude's. Dr. Bosack explained that at St. Jude's he was living in close quarters with a group of men with their own sets of problems. He further explained that he was able to develop close friendships and gain insight into his own character defects. Dr. Bosack testified that there was a lot of "tough

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love" at St. Jude's. He described the counselors there as being like Marine Corps drill sergeants (Tr 55-56, 97-98)

Dr. Bosack testified that he could relate to people at St. Jude's better than he could those at Talbott. Dr. Bosack opined that the patients at Talbott were "a lot of arrogant country club type, grew up with a lot of money, let's go out and play golf --that type of thing." Dr. Bosack contrasted these patients with those at St. Jude's whom he described as coming from blue collar backgrounds. Dr. Bosack explained that he grew up in a blue collar family and thus was able to develop very close friendships at St. Jude's. (Tr 56)

Dr. Bosack testified that he had first thought in April 1999 that he was ready to leave St. Jude's but that he had thought he should wait until May or June to ask about leaving. Dr. Bosack reported having second thoughts and concluding he was not yet ready to leave. Dr. Bosack further reported that he had then felt in July that he would be ready to leave in August or September. Dr. Bosack approached the staff in July about setting a discharge date. Of particular concern to Dr. Bosack was being discharged in time to attend the present hearing without having to ask for another continuance. According to Dr. Bosack, St. Jude's agreed to scheduling his discharge in time for the present hearing (66-67)

Dr. Bosack was transferred from St. Jude's to Talbott on August 11, 1999. One week before this transfer, members of the treatment teams at both facilities expressed concern that Dr. Bosack was not ready to return to Talbott, and was engaging in behavior that was manipulative and not completely honest in an attempt to hasten his discharge from St. Jude's. In discussing these issues with staff at Talbott, Dr. Bosack contended that the problems arose out of confusion. Staff members were concerned about Dr. Bosack's failure to take responsibility for some share in such confusion. (Res. Ex. F)

By letter dated August 18, 1999, to Mr. Graff, Jeffrey Sanders, LMSW advised that Dr. Bosack had been diagnosed as suffering from alcohol dependence, early full remission. Mr. Sanders also advised that Dr. Bosack had made progress at St. Jude's and accomplished many of the goals that had been set for him. St. Jude's discharged Dr. Bosack to Talbott and advised that he should "continue working on family issues, being assertive and practicing humility. It is recommended when [Dr. Bosack] returns to Ohio he [enter three-quarter] housing for at least six months. It is also recommended that [Dr. Bosack participate] in a family program along with his children." (Sts. Ex. 7, Res. Exs. E and F)

The August 18, 1999, Talbott Short Form Discharge Summary notes that Dr. Bosack "appears to have made significant progress internalizing the disease concept. He also

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appears to possess an appropriate understanding of how to use the program to cope” The summary further notes that Dr Bosack “appeared to be in a good place and committed to working a daily program of recovery” Upon discharge Talbott recommended that Dr Bosack seek additional supportive living which would be especially important in his transition to home (Res Ex F)

On August 18, 1999, upon his discharge from Talbott, Dr Bosack entered into a Continuing Care Contract with Talbott In addition to the standard conditions of the contract including abstinence, Dr Bosack agreed to follow the instructions of OPEP in establishing the details of the monitoring features included in his contract Dr Bosack testified that he went from Talbott to his father’s home in Toledo Dr Bosack explained that living with his father is not really appropriate for him at this time and he is seeking placement in a three-quarter residence He further explained that he is in a dangerous period, having gone from having lots of support and living in close quarters with a large group of others, to being by himself Dr Bosack further explained that his father is nearly eighty years old and can not relate to the challenges Dr Bosack is facing in the way residents in a three-quarters residence can (Tr 53-55, 59-61, Sts Ex 7, Res Ex E)

By letter dated October 4, 1999, Rafael Rios, Director of TLC Supportive Living Systems, Lisle, Illinois, advised Mr Graff of Dr Bosack’s current living arrangements Mr Rios advised that, since August 31, 1999, Dr Bosack has been living in the Bridges Program at Lisle, Illinois, with others working to reach long term sobriety Mr Rios described Dr Bosack as an exceptional resident who has abstained from alcohol and other drugs, been helpful with other residents, participated fully in the program, and made contact with the medical advocacy program in Illinois Dr Bosack had explained at hearing that a three-quarter way house gives a patient more freedom than a half way house but still provides support and guidance for patients not yet ready to be on their own (Tr 64, 98, Resp Ex G)

- 10 Dr Bosack testified that upon returning to Toledo in August 1999, he had visited his office at the Toledo Clinic to meet with the practice financial officers and advise them of his intent to terminate his employment Dr Bosack explained that his formal termination date will be November 1, 1999, as that is the date that will work out best for him financially However, he emphasized that he would not be returning to work there in any capacity (Tr 61)

Dr Bosack testified that if he never practices medicine again he will be disappointed, but that his experiences in 1999 have changed his life and those experiences will be worth it Dr Bosack further testified that his last drink was on November 23, 1998, the day before he left for Talbott (Tr 69-70)

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Dr. Bosack testified that he is currently unemployed. He noted that he is concerned about the loss of practice skills. He explained that he has been reading textbooks but understands that this is not a substitute for hands-on practice. He testified that he would like to attend as many CME conferences as possible, and has considered the advisability of entering some type of mini-residency before returning to practice. (Tr. 100-101)

Dr. Bosack testified that if he returns to practice he would like to do more teaching. He believes he is a good teacher and that an academic setting with some clinical practice would be the best situation for him. Dr. Bosack expressed some concern about returning to a high pressure or financially driven setting. At hearing, Dr. Bosack was asked what employment he envisioned for himself in the immediate future, without a license to practice medicine. He responded that he is in a dilemma because he is in arrears on alimony and child support and owes the Internal Revenue Service a great deal of money. He noted that he has a significant amount of debt and that while a six dollar an hour job would help in his recovery it would not help him erase the debt. Dr. Bosack testified that he is addressing these issues by requesting relief from the Domestic Relations Court in accord with his current income, and is evaluating alternative employment possibilities. He would like to seek employment with a medical manufacturing company but has not made much progress in this area due to the short amount of time since leaving inpatient treatment, and because he is unclear about what restrictions there might be working for such a company with a suspended license. (Tr. 61-64)

Dr. Bosack testified that he wants to keep his medical license. When asked why the Board should give him another chance in light of his past conduct, Dr. Bosack responded "I believe that this is the first time I have ever been treated. I know that on paper I have had multiple relapses. But as I have explained, I never quit drinking before. This is the first time in my life since age sixteen that I have gone for any duration of time without any alcohol in my system." Dr. Bosack commented that when he had been at Talbott before entering St. Jude's he had been the wise guy always cracking jokes, acting like a little kid. He explained that when he returned to Talbott after St. Jude's he was quiet but could see in others the behaviors he himself had previously engaged in. Dr. Bosack testified that he found this very enlightening and embarrassing. (Tr. 67-69)

Dr. Bosack testified that he does not believe that he will ever be finished with treatment. He intends to attend twelve step program meetings for the rest of his life. He further testified that he needs to secure a sponsor and get very active in a twelve step program. Dr. Bosack believes that he has some things to offer to other AA members. Dr. Bosack pointed out that he does not believe that staying in Toledo is good for him and that he no longer has any reason to stay there. (Tr. 98-100)

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Dr Bosack testified that he has arranged for Ricardo De La Flor, M D , to be his physician until he relocates He noted that Dr De La Flor is an internist with training in addictionology He further noted that Dr De La Flor is familiar with his background Dr Bosack testified that he was to meet with Mr Poczekaj of OPEP after the hearing concluded (Tr 100, Res Ex B)

At hearing, Dr Bosack conceded that in the past he has blamed everyone for his problems, including his wife, his father, his mother, his physical health, and his house He testified that there is now no question in his mind that he is the one who is responsible for his problems Dr Bosack believes that he was born with the disease of alcoholism but that he has been oblivious to its consequences Dr Bosack testified that he has a big job ahead of him dealing with his children who are very unhappy with him (Tr 101-102)

Dr Bosack testified that he developed a spirituality at St Jude's that he had never had before He noted that he has learned to surrender to a higher power Dr Bosack explained that he was not worried about the present hearing because he had turned it over to God and that he was prepared to accept and deal with the outcome (Tr 56-58, 97-98)

FINDINGS OF FACT

- 1 On May 13, 1998, Dr Bosack entered into a Consent Agreement with the Board in lieu of formal proceedings based upon his violation of Sections 4731 22(A), (B)(5), (B)(13), (B)(19), and (B)(26), Ohio Revised Code

In his May 13, 1998, Consent Agreement, Dr Bosack admitted that he was evaluated and/or treated for alcohol dependency at

- the Hazelden Foundation from May 16 to June 12, 1994
- the Toledo Hospital in Toledo, Ohio, on August 30, 1996
- the Herrington Clinic in Wisconsin, from September 8 to September 12, 1996
- the Toledo Hospital from October 3, 1996, to July 3, 1997

Dr Bosack had not abstained from the use of alcohol for more then one week at a time during the period described above and continued to use alcohol until November 23, 1998

In the Consent Agreement Dr Bosack also agreed to the suspension of his certificate to practice medicine and surgery for an indefinite period of time, but not less than three months, with interim monitoring requirements and conditions for reinstatement Additionally, the Consent Agreement provided that, upon reinstatement, his certificate to

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practice medicine and surgery would be subject to certain probationary terms, conditions and limitations for a period of at least five years

- 2 Paragraph four of Dr Bosack's May 13, 1998, Consent Agreement stated that Dr Bosack "shall abstain completely from the use of alcohol " Nonetheless, when he was stopped for a speeding violation on September 23, 1998, he admitted that he had been drinking alcohol Dr Bosack had a Blood alcohol content of 150 and was convicted of Driving Under the Influence

Dr Bosack notified the Board by letter dated September 23, 1998, that he had suffered a "recent relapse," having "resumed the use of alcohol within the past week " This letter was deceptive in that it significantly minimized the actual extent of Dr Bosack's continued abuse of alcohol

- 3 Dr Bosack signed his May 13, 1998, Consent Agreement on April 27, 1998, and it was ratified by the Board on May 13, 1998 On or about May 1, 1998, police officers responded to a 911 call placed from Dr Bosack's residence At that time, Dr Bosack's breath smelled of alcohol and he admitted that he had been drinking alcohol

CONCLUSIONS OF LAW

- 1 The acts, conduct, and/or omissions of Douglas P Bosack, M D , as described in Findings of Fact two, above, individually and/or collectively, constitute "[v]iolation of the conditions of limitation placed by the board upon a certificate to practice or violation of the conditions of limitation upon which a limited or temporary registration or certificate to practice is issued," as that clause is used in Section 4731 22(B)(15), Ohio Revised Code
- 2 Dr Bosack's acts, conduct, and/or omissions as described in the Findings of Fact, 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

* * * * *

Douglas P Bosack, M D , has made significant progress in attacking his disease and striving for recovery However, even at hearing, he demonstrated a tendency to minimize his misconduct and deflect responsibility for his actions The Talbott Recovery Campus records clearly indicate that

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many of the difficulties Dr Bosack encountered there were far more serious than he described them at hearing. The records from Toledo Hospital provide the most striking example of Dr Bosack's ability to manipulate his environment and convince people that he is doing well in recovery even when he is not. Nonetheless, the totality of the record shows that he is currently making progress and with very close supervision could be safely returned to practice at an appropriate time, provided he continues to make appropriate progress in his recovery program.

PROPOSED ORDER

It is hereby ORDERED that

- 1 The certificate of Douglas P Bosack, M D , to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Dr Bosack's certificate is SUSPENDED for an indefinite period of time, but not less than one year.
- 2 The Board shall not consider reinstatement of Dr Bosack's certificate to practice unless all of the following minimum requirements have been met:
 - a Within ninety days of the effective date of this Order, or as otherwise approved by the Board, Dr Bosack shall submit to appropriate treatment, as determined by an informed assessment of His current needs. Such assessment and treatment shall be provided by a treatment provider approved under Section 4731.25 of the Revised Code for treatment of drug and alcohol dependency.

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

 - i A detailed plan of recommended treatment based upon the treatment provider's informed assessment of Dr Bosack's current needs,
 - ii A statement indicating that Dr Bosack has entered into or commenced the recommended treatment program within forty-eight hours of its determination,

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- iii A copy of a treatment contract signed by Dr Bosack establishing the terms of treatment and aftercare, including any required supervision or restrictions on practice during treatment or aftercare, and
 - iv A statement indicating that the treatment provider will immediately report to the Board any failure by Dr Bosack to comply with the terms of the treatment contract during inpatient or outpatient treatment or aftercare
- b Within thirty days of the effective date of this Order, Dr Bosack shall contact an appropriate impaired physicians committee, approved by the Board, to arrange for assistance in recovery and/or aftercare
- c At the time he submits his application for reinstatement, Dr Bosack shall provide the Board with evaluations from a minimum of two physicians acceptable to the Board stating that Dr Bosack is no longer drug or alcohol dependent and is able to practice according to acceptable and prevailing standards of care Each of these evaluations shall be in writing and shall state with particularity the bases for such determination
- d Upon submission of his application for reinstatement, Dr Bosack shall provide the Board with certification from a treatment provider approved under Section 4731 25 of the Revised Code, that Dr Bosack has successfully completed any required inpatient treatment and is in continuing full compliance with regard to any required outpatient treatment and/or aftercare
- e In the event that Dr Bosack 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 His fitness to resume practice
- 3 For the duration of the suspension period, Dr Bosack shall be subject to the following terms, conditions, and limitations
- a Dr Bosack shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in the state in which he is practicing
 - b Dr Bosack shall appear in person for interviews before the full Board or its designated representative within three months of the effective date of this Order and as otherwise requested by the Board

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- c Dr Bosack shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the terms of this Order. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Order becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
- d At the time he submits his quarterly declarations, Dr Bosack shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended drug and/or alcohol treatment.
- e At the time he submits his quarterly declarations, Dr Bosack shall provide the Board with acceptable documentation evidencing participation in an alcohol and drug rehabilitation program, such as AA, NA, or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.
- f At the time he submits his quarterly declarations, Dr Bosack shall provide the Board with acceptable documentation evidencing continued compliance with the terms of the contract entered into with the impaired physicians committee, approved by the Board, provided that where the terms of the aftercare contract conflict with the terms of this Order, the terms of this Order shall control.
- g Dr Bosack shall provide continuing 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 Bosack's chemical dependency and related conditions, to the Board, to treating and monitoring physicians, and to others involved in the monitoring process. Dr Bosack shall also provide the Board written consent permitting any treatment provider from whom Dr Bosack 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.
- h Dr Bosack shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so

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authorized by law who has full knowledge of Dr Bosack's history of chemical dependency

- 1 Dr Bosack shall abstain completely from the use of alcohol
- j Dr Bosack shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board, at Dr Bosack's expense The drug testing panel utilized must be acceptable to the Secretary of the Board

Dr Bosack shall submit the required urine specimen to a supervising physician previously approved by the Board The supervising physician shall ensure that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained In addition, the supervising physician shall immediately inform the Board of any positive screening results

Dr Bosack shall ensure that the supervising physician provides quarterly reports to the Board, on forms approved or provided by the Board, verifying whether all screens have been conducted in compliance with this Order, whether all 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 Bosack must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable Dr Bosack shall further ensure that the previously designated supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor

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

- k Within thirty days of the effective date of this Order, Dr Bosack shall submit to the Board for its prior approval the name of a supervising physician to whom Dr Bosack shall submit the required urine specimens
- l Dr Bosack shall submit blood and/or urine specimens for analysis without prior notice at such times as the Board may request, at Dr Bosack's expense

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- m Dr Bosack shall notify the Board of any action in any state taken against a certificate to practice held by Dr Bosack in that state Moreover, Dr Bosack shall provide acceptable documentation verifying the other state board's actions
- 4 Upon reinstatement, Dr Bosack's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least seven years
- a Dr Bosack shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations
 - b Dr Bosack shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in the state in which he is practicing
 - c Dr Bosack shall appear in person for interviews before the full Board or its designated representative within three months of the date in which probation becomes effective and upon his request for termination of the probationary period, or as otherwise requested by the Board
 - d Dr Bosack shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of probation The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which probation becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month
 - e Dr Bosack shall notify the Board of any action in any state taken against a certificate to practice held by Dr Bosack in that state Moreover, Dr Bosack shall provide acceptable documentation verifying the other state board's actions
 - f If Dr Bosack violates probation in any respect, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period
 - g Periods of time during which Dr Bosack's certificate to practice medicine and surgery is inactive due to nonpayment of renewal fees will not apply to the reduction of the probationary period, unless otherwise determined by motion of the

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Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled

- h Dr Bosack shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Dr Bosack's history of chemical dependency
- i Dr Bosack shall abstain completely from the use of alcohol
- j Dr Bosack shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. The drug testing panel utilized must be acceptable to the Secretary of the Board

Dr Bosack shall submit the required urine specimens to the supervising physician approved by the Board prior to Dr Bosack's reinstatement. 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.

Dr Bosack shall ensure that the supervising physician provides quarterly reports to the Board, on forms approved or provided by the Board, verifying whether all screens have been conducted in compliance with this Order, whether all 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 Bosack must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr Bosack shall further ensure that the previously designated supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor.

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

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- k At the time he submits his quarterly declarations, Dr. Bosack shall provide the Board with acceptable documentation evidencing participation in an alcohol and drug rehabilitation program, such as AA, NA, or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.
- l Dr. Bosack shall submit blood and/or urine specimens for analysis without prior notice at such times as the Board may request, at Dr. Bosack's expense.
- m. At the time he submits his quarterly declarations, Dr. Bosack shall provide the Board with acceptable documentation evidencing continued compliance with the terms of the aftercare contract, provided that where the terms of the aftercare contract conflict with the terms of this Order, the terms of this Order shall control.
- n At the time he submits his quarterly declarations, Dr. Bosack shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended drug and/or alcohol treatment.
- o Dr. Bosack shall provide continuing 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. Bosack's chemical dependency or related conditions, 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. Dr. Bosack shall also 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.
- p If any declaration or report required by this Order is not received in the Board's offices on or before its due date, Dr. Bosack shall cease practicing medicine beginning the day following Dr. Bosack's receiving notice from the Board of non-receipt, either by writing, telephone, or by personal contact, until the declaration or report is received in the Board offices. Any practice during this time period shall be considered unlicensed practice of medicine in violation of Section 4731.41, Ohio Revised Code.
- q If, without permission from the Board, Dr. Bosack fails to submit to random screenings for drugs and/or alcohol, at least as frequently as required by this Order,

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Dr. Bosack shall cease practicing medicine beginning the day following Dr. Bosack's receiving notice from the Board of the violation and shall refrain from practicing medicine for thirty days. Practice during this time period shall be considered unlicensed practice in violation of Section 4731.41, Ohio Revised Code.

r Dr. Bosack shall refrain from commencing practice in Ohio without prior written Board approval. Moreover, prior to commencing practice in Ohio, the Board may require that Dr. Bosack comply with additional terms, conditions, or limitations, including the following:

i Dr. Bosack's practice shall be limited to a supervised structured environment in which Dr. Bosack's activities will be directly supervised and overseen by the monitoring physician approved by the Board prior to Dr. Bosack's reinstatement. The monitoring physician shall monitor Dr. Bosack and provide the Board with reports on Dr. Bosack's progress and status on a quarterly basis. All monitoring physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Bosack's quarterly declaration. It is Dr. Bosack's responsibility to ensure that the reports are timely submitted.

Dr. Bosack shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

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

ii In the event that Dr. Bosack should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Bosack must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.

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- iii Dr Bosack shall provide a copy of this Order by certified mail to all employers or entities with which he applies or contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where Dr Bosack applies for or obtains privileges or appointments Further, Dr Bosack shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt
 - iv Dr Bosack shall provide a copy of this Order by certified mail, return receipt requested, at the 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 Bosack shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt
 - s If Dr Bosack violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may set aside the stay order and impose the Permanent Revocation of Dr Bosack's certificate
- 4 Upon successful completion of probation, as evidenced by a written release from the Board, Dr Bosack's certificate will be fully restored

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



Daniel Roberts
Attorney Hearing Examiner



State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

EXCERPT FROM THE DRAFT MINUTES OF DECEMBER 8, 1999

REPORTS AND RECOMMENDATIONS

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

Dr. Steinbergh asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of Douglas P. Bosack, M.D.; Robert L. Gabriele, M.D.; and Jeffrey A. McErlean, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

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.

Dr. Steinbergh 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.

DOUGLAS P. BOSACK, M.D.

Dr. Steinbergh directed the Board's attention to the matter of Douglas P. Bosack, M.D. She advised that objections were filed to Hearing Examiner Roberts' Report and Recommendation and were previously distributed to Board members.

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

Mr. Graff advised that he represents Dr. Bosack. He stated that knows that the Board has reviewed the hearing materials, but Dr. Bosack's history is unusual in that he signed a consent agreement with this Board about his impairment in May 1998, although he continued to abuse alcohol. When he sought reinstatement, the Board notified him of the current action. Dr. Bosack has been out of the practice of medicine since May 1998. In November 1998 he entered into Talbot Hall Recovery Campus in Atlanta, Georgia. He then did an inner-city program at St. Jude's for recovering hard-core addicts. After coming back from Georgia, he has been at a three-quarter-way house in Chicago, connected with Rush Memorial Hospital.

Mr. Graff stated that Dr. Bosack does not object to the recommendations or the findings of fact. The only issue raised is the amount of time remaining. He has voluntarily continued his time in treatment rather than seek a hearing in front of the Board, and the Proposed Order of an additional year, they believe, is more than is necessary to protect the public. Dr. Bosack is seeking recertification as a cardiologist in November 2000. In order for him to do that, he must certify by September 1 that he has a license. Mr. Graff stated that they ask only that he be given the opportunity for that recertification and have his license back before September 1 in order to do that. He will have been out for more than two years at that time. Mr. Graff asked that the Board give Dr. Bosack some credit for the time that he has been out.

Dr. Bosack stated that he's learned a lot in the past year and realizes the mistakes he's made. In many respects, the events have been a good experience for him. A lot of things have changed in his life due to his time spent in Atlanta. He's very anxious to get back into medicine. He really misses the patient contact. There are so many things about medicine that he now realizes are really a privilege that he didn't appreciate before. Dr. Bosack stated that he does want to take the Cardiology Board examination in the

Fall of the year 2000. In order to register for that examination, he needs an active license sometime prior to September 1, 2000. He otherwise fully agrees with the one-year suspension. He has voluntarily entered the three-quarter program at Rush Memorial in Chicago. He's been there since August 31. He thinks it's a very good program. It's a setting in which he lives in an environment with other recovering alcoholics. He has been able to obtain work with a company in Chicago that does ACLS teaching and is involved in teaching the use of automatic defibrillators, and he will be doing lectures for instructors. Dr. Bosack stated that he has some projects going that he's happy to have found.

Dr. Bosack advised that he anticipates that he will stay in this three-quarter program for another year. He does not intend to return to Ohio because his ex-wife has moved to Chicago with their 12-year-old daughter. Part of the reason he chose Rush over other programs was because of the proximity to his daughter. Dr. Bosack stated that he intends to apply for an Illinois license after his Ohio license is reinstated.

Dr. Steinbergh noted that the Board has received some literature that refers to Dr. Bosack as an M.D. and some that indicate that he's a D.O.

Dr. Bosack verified that he is an M.D.

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

Ms. Strait stated that she is fully supportive of Dr. Bosack's efforts at recovery. Dr. Bosack has had a very long road because he was very, very ill. Dr. Bosack was deeply impaired and he has finally taken the steps that hopefully have put him on the road to recovery. He did go through one of the longest treatments she believes the Board has ever seen, and she is very supportive of his efforts.

Ms. Strait continued that she believes the proposed one-year suspension is an appropriate period of time. Dr. Bosack entered into a consent agreement with this Board and basically ignored it. Between the time he signed the consent agreement and when it was actually ratified by the Board, police officers were called to his home and it was very apparent to them that he was drinking. He admitted at the hearing that he was, in fact, drinking the entire time that he was negotiating the Consent Agreement, and the entire time that he was under suspension under the Consent Agreement. During that period of time, he did seek and receive evaluations from Board-approved treatment providers saying that he was okay to go back to practice. He was obviously untruthful in obtaining those evaluations. Dr. Bosack, in fact, did not achieve sobriety until November 1998, when he left to go to Talbot in Georgia for treatment.

Ms. Strait stated that the Board cannot allow people to enter into Consent Agreements under which they promise that they will not drink and have them continue to drink and let the person off lightly. Ms. Strait stated that she understands about needing to sit for Board certification exams, but she's not completely sure that Dr. Bosack would be allowed to sit with his license under probation. That depends entirely on the particular certifying board.

Ms. Strait stated that, regardless, she is in favor of the proposed one-year suspension because of what happened under the first consent agreement. Dr. Bosack needs to understand that, if he is unable to sit for the boards next year, that is a consequence of his addiction. One of the things that is taught in treatment and in AA is that using has consequences, and those are consequences with which one has to live. Part of recovery is accepting those consequences and learning to deal with them.

Ms. Strait again stated that she is supportive of the proposed additional year of suspension. She is not supportive of making that suspension retroactive in any way because of the serious violations of the first consent agreement. She and the Board support all of Dr. Bosack's efforts toward recovery.

DR. SOMANI MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF DOUGLAS P. BOSACK, M.D. DR. BHATI SECONDED THE MOTION.

Dr. Steinbergh stated that she would now entertain discussion in the above matter.

Dr. Agresta stated that he is in agreement with the Proposed Order, although he does have a alternative to try to clean up some things in the Order with which he was uncomfortable. The proposed alternative doesn't change the substance of the Hearing Examiner's Order, it just makes monitoring compliance with the Order a little easier. It doesn't change the suspension period. Dr. Agresta stated that he supports the proposed suspension period. This was a very serious impairment case. Dr. Bosack not only violated a previous agreement, he violated it while in the process of negotiating the agreement. Usually people who enter into consent agreements are clean for a period of time. Dr. Agresta stated that he believes that Dr. Bosack does understand his problem, but that does not negate the seriousness of the problem.

DR. AGRESTA MOVED THAT THE PROPOSED ORDER IN THE MATTER OF DOUGLAS P. BOSACK, M.D., BE AMENDED BY SUBSTITUTING THE FOLLOWING:

It is hereby ORDERED that:

1. The certificate of Douglas P. Bosack, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Dr. Bosack's certificate is SUSPENDED for an indefinite period of time, but not less than one year.
2. For the duration of the suspension period, Dr. Bosack shall be subject to the following terms, conditions, and limitations:
 - a. Dr. Bosack shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in the state in which he is practicing.

- b. Dr. Bosack shall appear in person for interviews before the full Board or its designated representative within three months of the effective date of this Order and as otherwise requested by the Board.
- c. Dr. Bosack shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the terms of this Order. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Order becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
- d. At the time he submits his quarterly declarations, Dr. Bosack shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended drug and/or alcohol treatment.
- e. At the time he submits his quarterly declarations, Dr. Bosack shall provide the Board with acceptable documentation evidencing participation in an alcohol and drug rehabilitation program, such as AA, NA, or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.
- f. At the time he submits his quarterly declarations, Dr. Bosack shall provide the Board with acceptable documentation evidencing continued compliance with the terms of the contract entered into with the impaired physicians committee, approved by the Board, provided that where the terms of the aftercare contract conflict with the terms of this Order, the terms of this Order shall control.
- g. Dr. Bosack shall provide continuing 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. Bosack's chemical dependency and related conditions, to the Board, to treating and monitoring physicians, and to others involved in the monitoring process. Dr. Bosack shall also provide the Board written consent permitting any treatment provider from whom Dr. Bosack 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.
- h. Dr. Bosack shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Dr. Bosack's history of chemical dependency.

- i Dr. Bosack shall abstain completely from the use of alcohol.
- j. Dr. Bosack shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board, at Dr. Bosack's expense. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Dr. Bosack shall submit the required urine specimen to a supervising physician previously approved by the Board. The supervising physician shall ensure that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the Board of any positive screening results.

Dr. Bosack shall ensure that the supervising physician provides quarterly reports to the Board, on forms approved or provided by the Board, verifying whether all screens have been conducted in compliance with this Order, whether all 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. Bosack must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable.

Dr. Bosack shall further ensure that the previously designated supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor.

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

- k. Within thirty days of the effective date of this Order, Dr. Bosack shall submit to the Board for its prior approval the name of a supervising physician to whom Dr. Bosack shall submit the required urine specimens.
- l. Dr. Bosack shall submit blood and/or urine specimens for analysis without prior notice at such times as the Board may request, at Dr. Bosack's expense.
- m. Dr. Bosack shall notify the Board of any action in any state taken against a certificate to practice held by Dr. Bosack in that state. Moreover, Dr. Bosack shall provide acceptable documentation verifying the other state board's actions.

3. The Board shall not consider reinstatement of Dr. Bosack's certificate to practice unless all of the following minimum requirements have been met:
 - a. Within ninety days of the effective date of this Order, or as otherwise approved by the Board, Dr. Bosack shall submit to appropriate treatment, as determined by an informed assessment of his current needs. Such assessment and treatment shall be provided by a treatment provider approved under Section 4731.25 of the Revised Code for treatment of drug and alcohol dependency.

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

- i. A detailed plan of recommended treatment based upon the treatment provider's informed assessment of Dr. Bosack's current needs;
 - ii. A statement indicating that Dr. Bosack has entered into or commenced the recommended treatment program within forty-eight hours of its determination;
 - iii. A copy of a treatment contract signed by Dr. Bosack establishing the terms of treatment and aftercare, including any required supervision or restrictions on practice during treatment or aftercare; and
 - iv. A statement indicating that the treatment provider will immediately report to the Board any failure by Dr. Bosack to comply with the terms of the treatment contract during inpatient or outpatient treatment or aftercare.
- b. Within thirty days of the effective date of this Order, Dr. Bosack shall contact an appropriate impaired physicians committee, approved by the Board, to arrange for assistance in recovery and/or aftercare.
 - c. At the time he submits his application for reinstatement, Dr. Bosack shall provide the Board with evaluations from a minimum of two physicians acceptable to the Board stating that Dr. Bosack is no longer drug or alcohol dependent and is able to practice according to acceptable and prevailing standards of care. Each of these evaluations shall be in writing and shall state with particularity the bases for such determination.
 - d. Upon submission of his application for reinstatement, Dr. Bosack shall provide the Board

with certification from a treatment provider approved under Section 4731.25 of the Revised Code, that Dr. Bosack has successfully completed any required inpatient treatment and is in continuing full compliance with regard to any required outpatient treatment and/or aftercare.

- e. In the event that Dr. Bosack 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 His fitness to resume practice.
4. Upon reinstatement, Dr. Bosack's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least seven years:
- a. Dr. Bosack shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations.
 - b. Dr. Bosack shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in the state in which he is practicing.
 - c. Dr. Bosack shall appear in person for interviews before the full Board or its designated representative within three months of the date in which probation becomes effective and upon his request for termination of the probationary period, or as otherwise requested by the Board.
 - d. Dr. Bosack shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of probation. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which probation becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
 - e. Dr. Bosack shall notify the Board of any action in any state taken against a certificate to practice held by Dr. Bosack in that state. Moreover, Dr. Bosack shall provide acceptable documentation verifying the other state board's actions.
 - f. If Dr. Bosack violates probation in any respect, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period.

- g. Periods of time during which Dr. Bosack's certificate to practice medicine and surgery is inactive due to nonpayment of renewal fees will not apply to the reduction of the probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
- h. Dr. Bosack shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Dr. Bosack's history of chemical dependency.
- i. Dr. Bosack shall abstain completely from the use of alcohol.
- j. Dr. Bosack shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Dr. Bosack shall submit the required urine specimens to the supervising physician approved by the Board prior to Dr. Bosack's reinstatement. 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.

Dr. Bosack shall ensure that the supervising physician provides quarterly reports to the Board, on forms approved or provided by the Board, verifying whether all screens have been conducted in compliance with this Order, whether all 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. Bosack must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable.

Dr. Bosack shall further ensure that the previously designated supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor.

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

- k. At the time he submits his quarterly declarations, Dr. Bosack shall provide the Board with acceptable documentation evidencing participation in an alcohol and drug rehabilitation program, such as AA, NA, or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.
- l. Dr. Bosack shall submit blood and/or urine specimens for analysis without prior notice at such times as the Board may request, at Dr. Bosack's expense.
- m. At the time he submits his quarterly declarations, Dr. Bosack shall provide the Board with acceptable documentation evidencing continued compliance with the terms of the aftercare contract, provided that where the terms of the aftercare contract conflict with the terms of this Order, the terms of this Order shall control.
- n. At the time he submits his quarterly declarations, Dr. Bosack shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended drug and/or alcohol treatment.
- o. Dr. Bosack shall provide continuing 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. Bosack's chemical dependency or related conditions, 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. Dr. Bosack shall also 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.
- p. If any declaration or report required by this Order is not received in the Board's offices on or before its due date, Dr. Bosack shall cease practicing medicine beginning the day following Dr. Bosack's receiving notice from the Board of non-receipt, either by writing, telephone, or by personal contact, until the declaration or report is received in the Board offices. Any practice during this time period shall be considered unlicensed practice of medicine in violation of Section 4731.41, Ohio Revised Code.
- q. If, without permission from the Board, Dr. Bosack fails to submit to random screenings for drugs and or alcohol, at least as frequently as required by this Order, Dr. Bosack shall cease practicing medicine beginning the day following Dr. Bosack's receiving notice from the Board of the violation and shall refrain from practicing medicine for thirty days. Practice during this time period shall be considered unlicensed practice in violation of Section 4731.41, Ohio Revised Code.

- r. Dr. Bosack shall refrain from commencing practice in Ohio without prior written Board approval. Moreover, prior to commencing practice in Ohio, the Board may require that Dr. Bosack comply with additional terms, conditions, or limitations, including the following:
 - i. Dr. Bosack's practice shall be limited to a supervised structured environment in which Dr. Bosack's activities will be directly supervised and overseen by the monitoring physician approved by the Board prior to Dr. Bosack's reinstatement. The monitoring physician shall monitor Dr. Bosack and provide the Board with reports on Dr. Bosack's progress and status on a quarterly basis. All monitoring physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Bosack's quarterly declaration. It is Dr. Bosack's responsibility to ensure that the reports are timely submitted.

Dr. Bosack shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

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

- ii. In the event that Dr. Bosack should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Bosack must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
- iii. Dr. Bosack shall provide a copy of this Order by certified mail to all employers or entities with which he applies or contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where Dr. Bosack applies for or obtains privileges or appointments. Further, Dr. Bosack shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
- iv. Dr. Bosack shall provide a copy of this Order by certified mail, return receipt

requested, at the 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. Bosack shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

- s. If Dr. Bosack violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may set aside the stay order and impose the Permanent Revocation of Dr. Bosack's certificate.
5. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Bosack's certificate will be fully restored.

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

DR. BHATI SECONDED THE MOTION.

Dr. Steinbergh advised Dr. Bosack that this Board deals with so many different impaired physicians, and one of the biggest things is that when he starts out with the denial he was in and has been in, this Board will make him prove that he will be an appropriate physician. There's nothing that allows the Board to believe him because he has lied to the Board. Hopefully in his recovery he will allow the Board to form an opinion that it can believe and trust in him and feel confident that he'll be practicing appropriately. The Board, in general, will follow its own guidelines in what it means to do today.

Dr. Bhati stated that Dr. Bosack is lucky that the Board is considering only a one-year suspension. It could be a five-year suspension. Dr. Bhati stated that he believes that this wasn't a relapse but was a continuation of his impairment since age 16. He never really got hold of the problem. This is the first time he's started to realize that he has a problem. Unless he understands that he does have a problem, he cannot get over it. Dr. Bhati stated that he hopes Dr. Bosack stays sober. This is his last stop. The next time he shows up before the Board, permanent revocation will be the answer.

Dr. Bosack stated that he understands that.

Dr. Somani stated that the Board is very much concerned about the well-being of the physicians practicing in this State. He noted that Dr. Bosack is a pretty smart person, a trained, certified cardiologist, and yet from all of the evidence the Board has seen, Dr. Bosack has denied his disease for so long. He asked Dr. Bosack whether he has stopped drinking completely.

Dr. Bosack stated that he has. His last drink was the day before he entered Talbot on November 23, 1998.

Dr. Somani stated that he hopes that Dr. Bosack is being honest with the Board this time around.

Dr. Somani stated that in the past Dr. Bosack has denied his problems. He asked whether Dr. Bosack has come to terms with the fact that this is a real problem for him and that he is the one who has to do something about it.

Dr. Bosack stated that he has absolutely. His main concern when he entered Talbot and was asked this question by one of his counselors was that he didn't think that they could help. He told them he didn't think he could stop drinking. His behavior was inappropriate for the first month he was there, which is why he was transferred to this other program. It's hard to describe spiritual experiences. It's hard to put into words, if you haven't been there, but having lived with both physicians and inner-city people all in the same environment, people with long addictions to cocaine and similar behavior to his with denial and arrogance and all these things, something can happen. Fortunately, it did happen. He started to realize who he was and the way he was behaving. It was the first time in his life that he really had an experience that he thinks was very spiritual. He has a firm belief in a higher power and it has changed his life. Quite frankly, if he were to never get his license back, he would still look back on this as having been worthwhile. He really wants to be a doctor again. He really misses taking care of patients. He dreams about it. On the other hand, he wouldn't trade what he has now for having his license back and going back to the way he was.

Dr. Somani stated that the Board hopes that it can trust that he will try to do the best he can because, as Dr. Bhati pointed out, the Board does want to help him, but there are times when there is no way to continue to help him when he is not able to help himself. It's up to him.

Dr. Bosack stated that he understands that and is grateful for the help the Board has given him so far.

Dr. Somani asked Dr. Bosack when, if he is unable to take the boards in November next year, the next possibility for him to take it would be.

Dr. Bosack stated that his initial intention was to sit for the actual board certification examination, simply for his own gratification. They will not allow that if you're board certified. He then asked about the recertification examination, which is offered twice a year, in the spring and the fall. He could take it in the spring of 2001. As far as he knows, recertification is not a requirement in cardiology at this date. It was mainly because he wanted a goal to have to help induce him to study that much harder and to prepare for it. He realizes that he's been out of medicine now for a year and a half and more, and he's concerned about that. There's no substitute for hands-on work. You can only get so much out of a textbook.

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

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye

Dr. Egner	- aye
Mr. Browning	- aye
Dr. Stienecker	- aye
Dr. Agresta	- aye
Dr. Garg	- abstain
Dr. Buchan	- aye
Dr. Steinbergh	- aye

The motion carried.

DR. SOMANI MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF DOUGLAS P. BOSACK, M.D. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

The motion carried.



State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

October 14, 1998

Douglas P. Bosack, M.D.
4235 Secor Road
Toledo, Ohio 43623

Dear Doctor Bosack:

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

- (1) On or about May 13, 1998, you entered into a Consent Agreement with the State Medical Board of Ohio in lieu of formal proceedings based upon your violation of Sections 4731.22(A),(B)(5), (B)(13), (B)(19), and (B)(26), Ohio Revised Code. A copy of this Consent Agreement is attached hereto and fully incorporated herein.

In this Consent Agreement, you made certain admissions, including that from May 16, 1994, to June 12, 1994, you received treatment for chemical dependency to alcohol at the Hazelden Clinic in Center City, Minnesota, and that you subsequently relapsed by resuming alcohol use; that you were thereafter evaluated and/or treated at The Toledo Hospital in Toledo, Ohio, on August 30, 1996, at the Herrington Clinic in West Allis, Wisconsin, from September 8, 1996, to September 12, 1996, and again at The Toledo Hospital on October 3, 1996, and that you entered The Toledo Hospital's Level 1 Outpatient Program on October 7, 1996; and that you were discharged to the Continuing Care Program, which you completed, on November 11, 1996.

In this Consent Agreement you also agreed with the Board to the suspension of your certificate to practice medicine and surgery for an indefinite period of time, but not less than three months, with interim monitoring requirements and conditions for reinstatement. Additionally, this Consent Agreement provided that, upon reinstatement, your certificate to practice medicine and surgery would be subject to certain probationary terms, conditions and limitations for a period of at least five (5) years.

Mailed 10/15/98

- (2) Paragraph (4) of this Consent Agreement states that you “shall abstain completely from the use of alcohol.”

Nonetheless, when you were stopped for a speeding violation on or about September 23, 1998, at approximately 2:00 a.m., you admitted that you had been drinking alcohol. You were subsequently charged with driving while under the influence of alcohol (DUI) after it was determined that you had a breath alcohol content of .150.

Additionally, you notified the Board by letter dated September 23, 1998, that you suffered a “recent relapse,” having “resumed the use of alcohol within the past week.”

- (3) You signed the above-referenced Consent Agreement on April 27, 1998, and it was ratified by the Board on May 13, 1997. On or about May 1, 1998, an officer and two sergeants with the Sylvania Township Police Department responded to a 911 call placed from your residence. At that time, your breath smelled of alcohol and you admitted that you had been drinking alcohol and that you had been choking the female who placed the 911 call.

Your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute a “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice or violation of the conditions of limitation upon which a limited or temporary registration or certificate to practice is issued,” as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1), (2), and (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, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Anand G. Garg, M.D.
Secretary

AGG/bjs
Enclosures

CERTIFIED MAIL #P 152 982 860
RETURN RECEIPT REQUESTED

cc: Douglas E. Graff, Esq.

CERTIFIED MAIL #Z 395 591 066
RETURN RECEIPT REQUESTED

**CONSENT AGREEMENT
BETWEEN
DOUGLAS P. BOSACK, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO**

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

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

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

- A. The STATE MEDICAL BOARD OF OHIO is empowered by Section 4731.22(A), 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 "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.

Further, THE STATE MEDICAL BOARD OF OHIO is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for violations of Section 4731.22(B)(5), Ohio Revised Code, "publishing a false, fraudulent, deceptive, or misleading statement;" Section 4731.22(B)(13), Ohio Revised Code, "[a] plea of guilty to, or a judicial finding of guilt of, a misdemeanor involving moral turpitude;" Section 4731.22(B)(19), Ohio Revised Code, "inability to practice according to acceptable and prevailing standards of care by reason of mental illness;" and Section 4731.22(B)(26), Ohio Revised Code, "[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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- B. THE STATE MEDICAL BOARD OF OHIO enters into this CONSENT AGREEMENT in lieu of formal proceedings based upon the violations of Sections 4731.22(A), (B)(5), (B)(13), (B)(19), and (B)(26), Ohio Revised Code, as detailed in paragraphs D., 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 Agreement.
- C. DOUGLAS P. BOSACK, M.D., is licensed to practice medicine and surgery in the State of Ohio.
- D. DOUGLAS P. BOSACK, M.D., ADMITS that he suffers from alcohol dependency and atypical depression, and that he has a history of bipolar disorder. DOCTOR BOSACK further ADMITS that since in or about 1987 he has, on an intermittent basis, seen psychologists for psychotherapy and psychiatrists for treatment and medication management for issues related to depression. DOCTOR BOSACK further ADMITS that he has self-prescribed medications in an attempt to manage his depression.

Further, DOCTOR BOSACK ADMITS that on May 16, 1994, he initially entered treatment for chemical dependency to alcohol at the Hazelden Clinic in Center City, Minnesota. DOCTOR BOSACK further ADMITS that on June 12, 1994, he was discharged from the Hazelden Clinic with recommendations for chemical dependency aftercare and psychiatric aftercare.

Further, DOCTOR BOSACK ADMITS that he subsequently relapsed by resuming alcohol use and was encouraged by individuals affiliated with his group practice to seek treatment. DOCTOR BOSACK further ADMITS that he was thereafter evaluated and/or treated at The Toledo Hospital in Toledo, Ohio, a BOARD approved treatment provider, on August 30, 1996; at the Herrington Clinic in West Allis, Wisconsin, from September 8, 1996, to September 12, 1996; and again at The Toledo Hospital on October 3, 1996. DOCTOR BOSACK further ADMITS that he then entered The Toledo Hospital's Level 1 Outpatient Program on October 7, 1996, and that he was discharged to the Continuing Care Program, which he has since completed, on November 11, 1996.

Further, DOCTOR BOSACK ADMITS that he entered into an aftercare agreement with The Toledo Hospital on or about November 11, 1996, and further ADMITS that he entered into an Advocacy Contract with the Ohio Physicians Effectiveness Program (OPEP) in or about December 1996.

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OHIO STATE BAR

DOCTOR BOSACK STATES that he has been fully compliant with his aftercare contract with The Toledo Hospital and his advocacy contract with OPEP.

- E. Further, DOUGLAS P. BOSACK, M.D., ADMITS that in completing his application cards for renewal of his certificate to practice medicine or surgery for the 1994-1996 and 1996-1998 biennial registration periods, he answered "No" to Question 3 which asks "At any time since signing your last application for renewal of your certificate have you been addicted to or dependent upon alcohol or any chemical substance; or been treated for, or been diagnosed as suffering from, drug or alcohol dependency or abuse?" DOCTOR BOSACK further ADMITS that he signed such application cards certifying that the information provided on the applications for renewal was true and correct in every respect.

DOCTOR BOSACK further ADMITS that he had, in fact, since signing his last applications for renewal, been addicted to or dependent upon alcohol, and treated for, or diagnosed as suffering from, alcohol dependency or abuse.

DOCTOR BOSACK further ADMITS that at the time he signed such applications he had not successfully completed treatment at a program approved by this Board and subsequently adhered to all statutory requirements as contained in Sections 4731.224 and 4731.25, Ohio Revised Code, and related provisions, and was not currently enrolled in a Board approved program.

- F. Further, DOUGLAS P. BOSACK, M.D., ADMITS that in completing his application card for renewal of his certificate to practice medicine or surgery for the 1996-1998 biennial registration period, 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 a felony or misdemeanor?" DOCTOR BOSACK further ADMITS that he signed such application card certifying that the information provided on the application for renewal was true and correct in every respect.

DOCTOR BOSACK further ADMITS that he had, in fact, on or about September 29, 1994, in the Sylvania Municipal Court in Lucas County, Ohio, pleaded no contest to and been found guilty of one (1) misdemeanor count of Domestic Violence in violation of Section 2919.25, Ohio Revised Code, and two (2) misdemeanor counts of Violating a Protection Order in violation of Section 2919.27, Ohio Revised Code.

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DOCTOR BOSACK further ADMITS that he again, on or about September 30, 1996, in the Sylvania Municipal Court in Lucas County, Ohio, pleaded no contest to and was found guilty of one (1) misdemeanor count of Violating a Protection Order in violation of Section 2919.25, Ohio Revised Code.

DOCTOR BOSACK further ADMITS that his sentences in the above-referenced criminal matters included that he complete a program of alcohol treatment and that he complete a program of psychological / psychiatric treatment. DOCTOR BOSACK further ADMITS that while a Violation Of Probation Motion To Show Cause was issued on or about December 23, 1996, due to his failure to complete a program of alcohol treatment, he has since completed the court-ordered treatment.

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

1. The certificate of DOCTOR BOSACK to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than three (3) months;
2. DOCTOR BOSACK 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 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;
3. DOCTOR BOSACK 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 BOSACK's history of chemical dependency;
4. DOCTOR BOSACK shall abstain completely from the use of alcohol;

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5. DOCTOR BOSACK 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 BOSACK'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 BOSACK 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.
6. DOCTOR BOSACK 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 BOSACK written notification of scheduled appearances, it is DOCTOR BOSACK'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 BOSACK shall immediately submit to the BOARD a written request to be notified of his next scheduled appearance;

7. DOCTOR BOSACK shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the BOARD. DOCTOR BOSACK 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 BOSACK shall submit to the BOARD for its prior approval the name of a supervising physician to whom DOCTOR

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DO NOT WRITE IN THESE SPACES

BOSACK shall submit the required urine specimens. 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 BOSACK 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 to unwilling to so serve, DOCTOR BOSACK must immediately notify the BOARD in writing, and make arrangements acceptable to the BOARD for another supervising physician as soon as practicable. DOCTOR BOSACK shall further ensure that the previously designated supervising physician also notifies the BOARD directly of the inability to continue to serve and the reasons therefor;

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

8. The BOARD shall not consider reinstatement of DOCTOR BOSACK's certificate to practice medicine and surgery unless and until all of the following conditions are met:
 - a. DOCTOR BOSACK shall submit an application for reinstatement, accompanied by appropriate fees, if any;
 - b. DOCTOR BOSACK 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

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STATE OF OHIO
DEPARTMENT OF HEALTH
DIVISION OF HEALTH SERVICES

BOSACK 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 BOSACK'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 BOSACK shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the BOARD or, if the BOARD and DOCTOR BOSACK are unable to agree on the terms of a written CONSENT AGREEMENT, then DOCTOR BOSACK 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 BOSACK'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 BOSACK has maintained sobriety.

9. In the event that DOCTOR BOSACK 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 BOSACK's fitness to resume practice.
10. Within thirty (30) days of the effective date of this Agreement, DOCTOR BOSACK shall provide a copy of this CONSENT AGREEMENT by

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certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds a license to practice. DOCTOR BOSACK 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 licensure or reinstatement of licensure. Further, DOCTOR BOSACK 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 Agreement, DOCTOR BOSACK shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he is under contract to provide physician services or is receiving training; and the Chief of Staff at each hospital where he has 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.

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

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

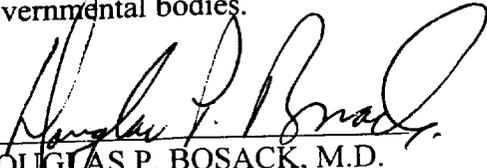
Any action initiated by the BOARD based on alleged violations of this CONSENT AGREEMENT shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

DOCTOR BOSACK 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. 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 that it shall become effective upon the last date of signature below.

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


DOUGLAS P. BOSACK, M.D.


ANAND G. GARG, M.D.
Secretary

4-27-98.
DATE

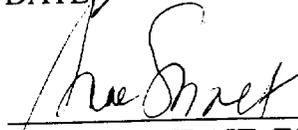

DOUGLAS E. GRAFF, ESQ.
Attorney for Dr. Bosack

5/5/98
DATE

05/13/98
DATE


RAYMOND J. ALBERT
Supervising Member

5/13/98
DATE


ANNE C. STRAIT, ESQ.
Assistant Attorney General

5/13/98
DATE

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