

**STEP II  
CONSENT AGREEMENT  
BETWEEN  
MICHAEL STEPHEN MCINTOSH  
AND  
THE STATE MEDICAL BOARD OF OHIO**

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

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

**BASIS FOR ACTION**

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

- A. The Board is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for a violation of Section 4731.22(B)(12), Ohio Revised Code, "commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed," to wit: Section 2925.11, Ohio Revised Code, "Possession of Drugs;" Section 4731.22(B)(20), Ohio Revised Code, "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," to wit: Rule 4731-11-08, Ohio Administrative Code, "Utilizing controlled substances for self and family members;" and Section 4731.22(B)(26), Ohio Revised Code, "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violations of Section 4731.22(B)(12), (B)(20), and (B)(26), Ohio Revised Code, as set forth in Paragraph (E) of the October 11, 2000 Step I Consent Agreement between Michael Stephen McIntosh and the State Medical Board of Ohio [October 2000 Step I Consent Agreement], a copy of which is attached hereto and fully incorporated herein, and expressly reserves the right to institute formal proceedings

based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement.

- C. Dr. McIntosh is applying for reinstatement of his license to practice medicine and surgery in the State of Ohio, License # 35-049922, which was suspended pursuant to the terms of the aforementioned October 2000 Step I Consent Agreement.
- D. Dr. McIntosh states that he is also licensed to practice medicine and surgery in the State of West Virginia, where he is currently engaged in active practice pursuant to a November 30, 2000, Consent Order with the West Virginia Board of Medicine [West Virginia Consent Order], limiting his total employment to a maximum of 40 hours per week; and the State of North Carolina, where his license is presently inactive; and the State of Virginia, where his license is presently under suspension.
- E. Dr. McIntosh admits that after entering treatment for opiate dependence on or about August 28, 2000, at Shepherd Hill Hospital, a Board approved treatment provider in Newark, Ohio, he was discharged on or about October 27, 2000, treatment complete. Dr. McIntosh further admits that although he temporarily relinquished his D.E.A. certificate, such certificate has been reinstated subject to certain limitations. Dr. McIntosh further admits that criminal and civil actions which were pending at the time he entered into the aforementioned October 2000 Step I Consent Agreement have since been resolved through his payment of a twenty-thousand dollar civil penalty and his commitment to participate in an ongoing eighteen-month criminal pre-trial diversion program.
- F. Dr. McIntosh states, and the Board acknowledges receipt of information to support, that since being discharged from Shepherd Hill Hospital, he has remained compliant with his recovery plan and subsequent Aftercare Contract with his treatment provider, Shepherd Hill Hospital, including participating in Caduceus and aftercare meetings weekly, attending AA meetings at least four times weekly, and submitting to random urine screens weekly. In addition, Dr. McIntosh states that since his aforementioned discharge, he has remained fully compliant with the terms of his Advocacy Contract with the Ohio Physicians Effectiveness Program. Dr. McIntosh admits that such contracts remain in effect. Dr. McIntosh states, and the Board acknowledges, that Richard N. Whitney, M.D., of Shepherd Hill Hospital, a Board approved treatment provider in Newark, Ohio, and William C. Rose, M.D., of St. Joseph's Hospital in Parkersburg, West Virginia, a physician whom the Board approved as an assessor in this matter, have provided written reports indicating that Dr. McIntosh's ability to practice has been assessed and that he has been found capable of practicing medicine and surgery according to acceptable and prevailing standards of care. Accordingly, Dr. McIntosh states, and the Board acknowledges, that Dr. McIntosh has fulfilled the conditions for reinstatement of his certificate to practice medicine and surgery in the

State of Ohio, as established in the aforementioned October 2000 Step I Consent Agreement.

### **AGREED CONDITIONS**

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

1. Dr. McIntosh shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio and shall fully comply with the conditions and limitations of his West Virginia Consent Order, provided that where the terms of the West Virginia Consent Order conflict with the terms of this Consent Agreement, this Consent Agreement shall control for Board purposes.
2. Dr. McIntosh shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. The first quarterly declaration must be received in the Board's offices on the date his quarterly declaration would have been due pursuant to his October 2000 Step I Consent Agreement with the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. Dr. McIntosh shall appear in person for an interview before the full Board or its designated representative. The first such appearance shall take place on the date his appearance would have been scheduled pursuant to his October 2000 Step I Consent Agreement with the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
4. In the event Dr. McIntosh is found by the Secretary of the Board to have failed to comply with any provision of this Consent Agreement, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Consent Agreement.

### **MONITORING OF REHABILITATION AND TREATMENT**

#### **Drug Associated Restrictions**

5. Dr. McIntosh shall keep a log of all controlled substances prescribed. Such log shall be submitted, in the format approved by the Board, thirty days prior to Dr. McIntosh's

personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. McIntosh shall make his patient records with regard to such prescribing available for review by an agent of the Board upon request.

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

#### **Sobriety**

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

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

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

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

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

### **Monitoring Physician**

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

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

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

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

### **Rehabilitation Program**

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

Dr. McIntosh 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. McIntosh's quarterly declarations.

### **Aftercare/Physician Health Program**

13. Dr. McIntosh shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, and with his Advocacy Contract with the Ohio Physicians Effectiveness Program, or another physician health program approved in advance by the Board, provided that, where terms of the aftercare contract and/or advocacy contract conflict with terms of this Consent Agreement, the terms of this Consent Agreement shall control.

### **Releases**

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

### **Required Reporting by Licensee**

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

Dr. McIntosh shall provide a copy of this Consent Agreement to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

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

#### **FAILURE TO COMPLY**

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

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

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

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

#### **ACKNOWLEDGMENTS/LIABILITY RELEASE**

Dr. McIntosh 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.

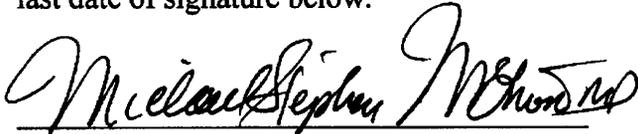
Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

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

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

**EFFECTIVE DATE**

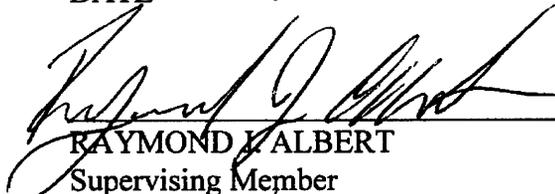
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

  
MICHAEL STEPHEN MCINTOSH, M.D.

5/4/02  
DATE

  
ANAND G. GARG, M.D.  
Secretary

05/08/02  
DATE

  
RAYMOND J. ALBERT  
Supervising Member

5/8/02  
DATE

  
REBECCA J. ALBERS, ESQ.  
Assistant Attorney General

5/8/02  
DATE

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**STEP I**  
**CONSENT AGREEMENT**  
**BETWEEN**  
**MICHAEL STEPHEN MCINTOSH, M.D.**  
**AND**  
**THE STATE MEDICAL BOARD OF OHIO**

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

MICHAEL STEPHEN MCINTOSH, M.D., enters into this CONSENT AGREEMENT being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

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**BASIS FOR ACTION**

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

- A. THE STATE MEDICAL BOARD OF OHIO is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, permanently revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for a violation of Section 4731.22(B)(12), Ohio Revised Code, "commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed," to wit: Section 2925.11, Ohio Revised Code, "Possession of Drugs;" Section 4731.22(B)(20), Ohio Revised Code, "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," to wit: Rule 4731-11-08, Ohio Administrative Code, "Utilizing Controlled substances for self and family members;" and Section 4731.22(B)(26), Ohio Revised Code, "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice."
  
- B. THE STATE MEDICAL BOARD OF OHIO enters into this CONSENT AGREEMENT in lieu of formal proceedings based upon the violations of Section 4731.22(B)(12), (B)(20), and (B)(26), Ohio Revised Code, as set forth in Paragraph E below, and expressly reserves the right to institute

- formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement.
- C. MICHAEL STEPHEN MCINTOSH, M.D., is licensed to practice medicine and surgery in the State of Ohio.
- D. MICHAEL STEPHEN MCINTOSH, M.D., STATES that he is also licensed to practice medicine and surgery in the State of West Virginia.
- E. MICHAEL STEPHEN MCINTOSH, M.D., ADMITS that he reported to the STATE MEDICAL BOARD OF OHIO in a letter dated August 24, 2000, that he was entering a treatment program due to substance abuse.

MICHAEL STEPHEN MCINTOSH, M.D., further ADMITS that he voluntarily entered Shepherd Hill Hospital in Newark, Ohio, a Board Approved treatment provider, on or about August 28, 2000. DOCTOR MCINTOSH further ADMITS that he has been diagnosed with narcotic dependency.

MICHAEL STEPHEN MCINTOSH, M.D., further ADMITS that he was obtaining hydrocodone by ordering samples, and was using said samples himself.

MICHAEL STEPHEN MCINTOSH, M.D., STATES that he relinquished his D.E.A. certificate on or about August 23, 2000, when the D.E.A. confronted him about the number of samples of hydrocodone he had ordered.

### **AGREED CONDITIONS**

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

### **SUSPENSION OF CERTIFICATE**

1. The certificate of DOCTOR MCINTOSH 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;

### **Sobriety**

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

Releases; Quarterly Declarations and Appearances

4. DOCTOR MCINTOSH 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 MCINTOSH'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 MCINTOSH further agrees to provide the BOARD written consent permitting any treatment provider from whom he obtains treatment to notify the BOARD in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this CONSENT AGREEMENT.
5. DOCTOR MCINTOSH 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;
6. DOCTOR MCINTOSH 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 MCINTOSH written notification of scheduled appearances, it is DOCTOR MCINTOSH'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 MCINTOSH shall immediately submit to the BOARD a written request to be notified of his next scheduled appearance;

Drug & Alcohol Screens; Supervising Physician

7. DOCTOR MCINTOSH shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the BOARD. DOCTOR MCINTOSH 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 MCINTOSH shall submit to the BOARD for its prior approval the name of a supervising physician to whom DOCTOR MCINTOSH shall submit the required urine specimens. In approving an individual to serve in this capacity, the BOARD will give preference to a physician who practices in the same locale as DOCTOR MCINTOSH. 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 MCINTOSH shall ensure that the supervising physician provides quarterly reports to the BOARD, on forms approved or provided by the BOARD, verifying whether all urine screens have been conducted in compliance with this CONSENT AGREEMENT, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his responsibilities;

In the event that the designated supervising physician becomes unable or unwilling to so serve, DOCTOR MCINTOSH must immediately notify the BOARD in writing, and make arrangements acceptable to the BOARD for another supervising physician as soon as practicable. DOCTOR MCINTOSH shall further ensure that the previously designated supervising

physician also notifies the BOARD directly of the inability to continue to serve and the reasons therefore;

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

#### CONDITIONS FOR REINSTATEMENT

8. The BOARD shall not consider reinstatement of DOCTOR MCINTOSH's certificate to practice medicine and surgery unless and until all of the following conditions are met:
  - a. DOCTOR MCINTOSH shall submit an application for reinstatement, accompanied by appropriate fees, if any;
  - b. DOCTOR MCINTOSH 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 MCINTOSH 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 MCINTOSH'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 MCINTOSH shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the BOARD or, if the BOARD and DOCTOR MCINTOSH are unable to agree on the terms of a written CONSENT AGREEMENT, then DOCTOR MCINTOSH 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 MCINTOSH'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 MCINTOSH has maintained sobriety.

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

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

10. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR MCINTOSH shall provide a copy of this CONSENT AGREEMENT by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. DOCTOR MCINTOSH 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, DOCTOR MCINTOSH shall provide this BOARD with a copy of the return receipt as proof of notification within thirty (30) days of receiving that return receipt.
11. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR MCINTOSH shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, DOCTOR MCINTOSH shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the

Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

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

#### **FAILURE TO COMPLY**

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

#### **ACKNOWLEDGMENTS/LIABILITY RELEASE**

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

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

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

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

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

**EFFECTIVE DATE**

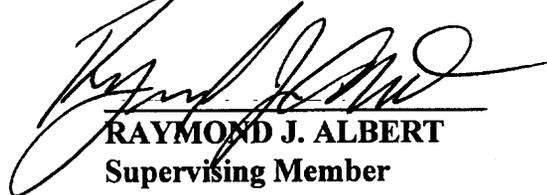
It is expressly understood that this CONSENT AGREEMENT is subject to ratification by the BOARD prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

  
MICHAEL STEPHEN MCINTOSH, M.D.

  
ANAND G. GARG, M.D.  
Secretary

3 Oct 00  
DATE

10/11/00  
DATE

  
RAYMOND J. ALBERT  
Supervising Member

10/11/00  
DATE

  
ANNE B. STRAIT, ESQ.  
Assistant Attorney General

10/11/00  
DATE