STATE MEDICAL BOARD
OF OHIO
2007 DEC -5 P 4: 42

CONSENT AGREEMENT
BETWEEN
ROGER ALAN MILLER, M.D.,
AND
THE STATE MEDICAL BOARD OF OHIO

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

Dr. Miller 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)(13), 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] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude."

B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(13), 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 Consent Agreement.

C. Dr. Miller is licensed to practice medicine and surgery in the State of Ohio, License # 35-057893.

D. Dr. Miller states that he is not licensed to practice medicine and surgery in any other state or jurisdiction.

E. Dr. Miller admits that on or about May 26, 2007, he drove to a park in Columbus, Ohio, for the purpose of engaging in mutual masturbation. Dr. Miller admits further that after meeting a man at the park who appeared to be interested in this activity, he invited the other man to join him in a small one-person park restroom. Dr. Miller admits that upon entering the restroom, the other man revealed that he was a police

officer, whereupon he arrested Dr. Miller for public indecency. Dr. Miller admits further that on July 3, 2007, he pled no contest to, and was found guilty of, the charge of Public Indecency, a fourth degree misdemeanor, in violation of Section 2307.09(A)(1) of the City Code of Columbus, Ohio, and that he was fined $250.00.

Dr. Miller states, and the Board is in receipt of information to support, that on September 27, 2007, and October 15, 2007, Dr. Miller underwent a Board-ordered psychiatric assessment at the Center for Marital and Sexual Health, Beachwood, Ohio. Dr. Miller states, and the Board has information to support, that Stephen B. Levine, M.D., Candace B. Risen, L.I.S.W., and Marvin Wasman, Ph.D., opined that Dr. Miller is capable of practicing medicine and surgery according to acceptable and prevailing standards of care without restriction or supervision, and that he has the diagnosis of Adjustment Disorder with Depressed Mood.

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

REPRIMAND

1. Dr. Miller shall be and is hereby REPRIMANDED.

SUSPENSION OF CERTIFICATE

2. The certificate of Dr. Miller to practice medicine and surgery in the state of Ohio shall be SUSPENDED for thirty days.

INTERIM MONITORING TERMS

3. During the period of time that Dr. Miller's certificate to practice medicine and surgery is suspended, Dr. Miller shall comply with the following terms, conditions and limitations:

   a. **Obey the Law**: Dr. Miller shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.

   b. **Individual Psychotherapy:** Within thirty days of the effective date of this Consent Agreement, Dr. Miller shall submit to the Board for its prior approval the name and curriculum vitae of a psychologist of Dr. Miller's choice. Upon approval by the Board, Dr. Miller shall undergo and continue individual psychotherapy with his approved psychologist on a weekly basis, or as otherwise

determined by the Board. Dr. Miller shall comply with his treatment plan, including taking medications as prescribed for his condition.

Dr. Miller shall continue in psychological treatment until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require reports from the approved psychologist. The reports shall contain information describing Dr. Miller's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Miller's compliance with the treatment plan; Dr. Miller's status; Dr. Miller's progress in treatment; and results of any studies or psychological tests that have been conducted since the prior report.

Dr. Miller shall ensure that the reports are forwarded to the Board at least every six months. The first semi-annual psychological report must be received in the Board's offices on the first day of the sixth month following the month in which this Consent Agreement becomes effective. Subsequent semi-annual psychological reports must be received in the Board's offices on or before the first day of every sixth month thereafter.

In addition, Dr. Miller shall ensure that his psychologist immediately notifies the Board of Dr. Miller's failure to comply with his treatment plan and/or any determination that Dr. Miller is unable to practice due to any mental health condition.

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

c. **Required Reporting by Licensee:** Within thirty days of the effective date of this Consent Agreement, Dr. Miller 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. Miller 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.

Within thirty days of the effective date of this Consent Agreement, Dr. Miller 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. Miller 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. Miller shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

Dr. Miller shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Miller psychological or psychiatric treatment.

PROBATIONARY TERMS

4. Upon reinstatement of Dr. Miller's certificate to practice medicine and surgery in Ohio pursuant to this agreement, Dr. Miller's certificate shall be subject to the following probationary terms, conditions and limitations:

   a. **Terms, Conditions, and Limitations Continued from Suspension Period**: Dr. Miller shall continue to be subject to all of the terms, conditions and limitations set forth in paragraphs 3.a through 3.c of this Consent Agreement.

   b. **Course on Personal Ethics:** Before the end of the first year of probation, or as otherwise approved by the Board, Dr. Miller shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.

   c. **Absence from Ohio:** Dr. Miller shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.

   d. **Noncompliance Will Not Reduce Probationary Period**: In the event Dr. Miller 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.

   e. **Annual Declarations:** Dr. Miller shall submit annual 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 annual declaration must be received in the Board's offices on the first day of the twelfth month following the month in which this Consent Agreement becomes effective. Subsequent annual declarations must be received in the Board's offices on or before the first day of every twelfth month thereafter.

f. **Appearances:** Dr. Miller 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 annually 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.

g. **Releases:** Dr. Miller 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. Miller's psychiatric 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. Miller further agrees to provide the Board written consent permitting any treatment provider from whom he obtains psychiatric or psychological treatment to notify the Board in the event he fails to agree to or comply with any treatment. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Miller 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. Miller has violated any term, condition or limitation of this Consent Agreement, Dr. Miller 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. Miller shall not request termination of the probationary terms, limitations, and conditions contained in this Consent Agreement for a minimum of three years. In addition, Dr. Miller 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. Miller 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. Miller 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. Miller acknowledges that his social security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

EFFECTIVE DATE

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

Roger A. Miller MD
ROGER ALAN MILLER, M.D.

12/5/07 bhm per
DATE phone authorization from Roger Miller, MD provided 12/12/07

Lance A. Talmage MD
LANCE A. TALMAGE, M.D.
Secretary

12-12-07
DATE

RAYMOND J. ALBERT
Supervising Member

12/12/07
DATE

Karen Mortland
KAREN MORTLAND
Enforcement Attorney

12/6/07
DATE

STATE MEDICAL BOARD
OF OHIO
2007 DEC -5 P 4:42