

OHIO STATE MEDICAL BOARD  
SEP 1 2000

**CONSENT AGREEMENT  
BETWEEN  
KEVIN R. CLARK, M.D.  
AND  
THE STATE MEDICAL BOARD OF OHIO**

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

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

**BASIS FOR ACTION**

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

- A. THE STATE MEDICAL BOARD OF OHIO is empowered by Sections 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 violations of 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;" Section 4731.22(B) (9), Ohio Revised Code, "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction for, a felony;" and Section 4731.22(B)(10), Ohio Revised Code, "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed."
- 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(B)(26), (B)(9), and (B)(10), Ohio Revised Code, as set forth in Paragraphs E through J 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. KEVIN R. CLARK, M.D., is applying for restoration of his license to practice medicine and surgery in the State of Ohio. DOCTOR CLARK's license to practice medicine and surgery in the State of Ohio expired on September 30, 1994.
- D. KEVIN R. CLARK, M.D. STATES that he is not licensed to practice medicine and surgery in any other state or jurisdiction.
- E. KEVIN R. CLARK, M.D., ADMITS that he suffers from chemical dependency and that his diagnoses include alcohol dependency and opioid dependency. DOCTOR CLARK further ADMITS that he has a past history of poly-substance abuse and a more recent history of prednisone abuse and pseudoephedrine abuse.

DOCTOR CLARK further ADMITS that he has obtained controlled substances for his own use by taking sample medications from his prior workplaces, and by prescribing (including written and called-in prescriptions) in the names of others using either his own name or a false name as the prescribing physician. DOCTOR CLARK further ADMITS that he has at times also prescribed a non-controlled medication, such as Amoxil, in an attempt to give an appearance of legitimacy to such controlled substance prescriptions, and that he has abused controlled substances prescribed by other physicians for legitimate medical purposes, including a knee injury.

- F. KEVIN R. CLARK, M.D., ADMITS that he began abusing alcohol and controlled substances in the 1970's, during his high school years, and further ADMITS that following a seven year period of non-use, he returned to abusing alcohol and controlled substances in or about 1986.

DOCTOR CLARK further ADMITS that he initially received treatment for his chemical dependency at Glenbeigh Health Sources in Rock Creek, Ohio, a BOARD approved treatment provider, from on or about July 21, 1994, to on or about August 18, 1994. DOCTOR CLARK further ADMITS that he returned to using drugs and alcohol immediately upon discharge from treatment, having called in a prescription for his own use prior to his discharge, and that he again received treatment at Glenbeigh Health Sources from on or about November 1, 1994, to on or about April 20, 1995. DOCTOR CLARK further ADMITS that he thereafter maintained abstinence from drugs and alcohol until relapsing in or about November 1995.

DOCTOR CLARK further ADMITS that he received treatment for his chemical dependency at Shepherd Hill Hospital in Newark, Ohio, a

BOARD approved treatment provider, from on or about February 1, 1996, to on or about May 17, 1996, and that he again returned to using drugs and alcohol immediately upon discharge from treatment.

DOCTOR CLARK further ADMITS that he again received treatment at Shepherd Hill Hospital from on or about June 24, 1996, to on or about September 20, 1996.

G. KEVIN R. CLARK, M.D., ADMITS that on or about November 6, 1996, in the Common Pleas Court of Montgomery County, Ohio, and on or about October 8, 1998, in the Common Pleas Court of Franklin County, Ohio, he pled guilty to Deception to Obtain Dangerous Drugs, in violation of Section 2925.22, Ohio Revised Code, and was granted Treatment in Lieu of Conviction pursuant to Section 2951.041, Ohio Revised Code. DOCTOR CLARK further ADMITS that the acts underlying these matters occurred in June 1996 and in February 1998, respectively, and involved his having called-in prescriptions for Tussionex, a schedule III controlled substance, in the names of others and using a false name for the prescribing physician, when the Tussionex was intended for his own use.

H. KEVIN R. CLARK, M.D., ADMITS that after again relapsing he entered treatment at Talbot Recovery Services at Park Medical Center in Columbus, Ohio, a Board approved treatment provider, on or about March 3, 1998, and at that time, at his own request, began submitting to random urine screenings for drugs and alcohol. DOCTOR CLARK further ADMITS that he completed the Intensive Outpatient Program on or about April 9, 1998. DOCTOR CLARK further ADMITS that he thereafter participated in the Continuing Care Group from on or about April 14, 1998, to on or about July 27, 1999, completing 52 weeks and successfully graduating from Talbot Recovery Service's aftercare program.

KEVIN R. CLARK, M.D., STATES that since February 1998 he has remained abstinent from the use of alcohol and medications not prescribed by a physician with knowledge of his history of chemical dependency and the disease of addiction. DOCTOR CLARK further STATES that he submitted to random urine screening for drugs and alcohol on a weekly basis from in or about March 1998 until in or about November 1999, at which time the frequency was changed to bi-weekly, and that no specimen has tested positive for drugs or alcohol.

DOCTOR CLARK ADMITS that he entered into an advocacy contract with the Ohio Physicians Effectiveness Program (OPEP) in or about August 1998, and that such contract remains in effect to date. DOCTOR

CLARK STATES, and the BOARD ACKNOWLEDGES receipt of information to support, that he has remained fully compliant with such advocacy contract with OPEP.

DOCTOR CLARK further STATES that his current recovery program includes random urine screening for drugs and alcohol on a bi-weekly basis and attendance at no less than three A.A. or Caduceus meetings per week.

- I. KEVIN R. CLARK, M.D., STATES, and the STATE MEDICAL BOARD OF OHIO ACKNOWLEDGES, that Fred Karaffa, M.D., of Shepherd Hill Hospital in Newark, Ohio, a BOARD approved treatment provider, and John J. Peterangelo, D.O., and Jack Campbell, MRC, CCDCIII-E, LSW, of Greene Hall in Xenia, Ohio, a BOARD approved treatment provider, have provided written reports indicating that DOCTOR CLARK's ability to practice has been assessed and that he has been found capable of practicing medicine and surgery according to acceptable and prevailing standards of care, so long as certain treatment and monitoring requirements are in place.
- J. On or about February 9, 2000, the STATE MEDICAL BOARD OF OHIO approved a motion to require that DOCTOR CLARK pass the Special Purpose Examination (SPEX) before receiving further consideration of his application for restoration of his license to practice medicine and surgery in the State of Ohio. DOCTOR CLARK STATES, and the STATE MEDICAL BOARD OF OHIO ACKNOWLEDGES receipt of information to support, that DOCTOR CLARK took the SPEX on June 26, 2000, and was thereafter notified of having received a passing score.

#### **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 KEVIN R. CLARK, M.D., to practice medicine and surgery in the State of Ohio shall be restored, and KEVIN R. CLARK, M.D., knowingly and voluntarily agrees with THE STATE MEDICAL BOARD OF OHIO, (hereinafter BOARD), to the following PROBATIONARY terms, conditions and limitations:

1. DOCTOR CLARK shall obey all federal, state and local laws, and all rules governing the practice of medicine in Ohio;
2. DOCTOR CLARK 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 CLARK 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 CLARK written notification of scheduled appearances, it is DOCTOR CLARK'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 CLARK shall immediately submit to the BOARD a written request to be notified of his next scheduled appearance;

4. In the event that DOCTOR CLARK should leave Ohio for three (3) continuous months, or reside or practice outside the State, DOCTOR CLARK must notify the BOARD in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this period under the CONSENT AGREEMENT, unless otherwise determined by motion of the BOARD in instances where the BOARD can be assured that probationary monitoring is otherwise being performed;
5. In the event DOCTOR CLARK 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 the CONSENT AGREEMENT;

## **MONITORING OF REHABILITATION AND TREATMENT**

### **Drug Associated Restrictions**

6. DOCTOR CLARK shall keep a log of all controlled substances prescribed. Such log shall be submitted in the format approved by the BOARD thirty (30) days prior to DOCTOR CLARK 's personal appearance before the BOARD or its designated representative, or as otherwise directed by the BOARD;
7. DOCTOR CLARK shall not, without prior BOARD approval, administer, personally furnish, or possess (except as allowed under Paragraph 8 below) any controlled substances as defined by state or federal law. In the event that the BOARD agrees at a future date to modify this CONSENT AGREEMENT to allow DOCTOR CLARK to administer or personally furnish controlled substances, DOCTOR CLARK 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 (30) days prior to DOCTOR CLARK 's personal appearance before the BOARD or its designated representative, or as otherwise directed by the BOARD;

### **Sobriety**

8. DOCTOR CLARK 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 CLARK 's history of chemical dependency;
9. DOCTOR CLARK shall abstain completely from the use of alcohol;

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

10. DOCTOR CLARK shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the BOARD. DOCTOR CLARK 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 CLARK shall submit to the BOARD for its prior approval the name of a supervising physician to whom DOCTOR CLARK 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 CLARK. 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 CLARK 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 screenings 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 CLARK must immediately notify the BOARD in writing, and make arrangements acceptable to the BOARD for another supervising physician as soon as practicable. DOCTOR CLARK 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 CLARK's quarterly declaration. It is DOCTOR CLARK's responsibility to ensure that reports are timely submitted;

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

### **Monitoring Physician**

12. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR CLARK shall submit for the BOARD's prior approval the name of a monitoring physician, who shall review DOCTOR CLARK's patient charts and shall submit a written report of such review to the BOARD on a quarterly basis. 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 CLARK and who is engaged in the same or similar practice specialty. Such chart review may be done on a random basis, with the frequency and number

of charts reviewed to be determined by the BOARD. It shall be DOCTOR CLARK's responsibility to ensure that the monitoring physician's quarterly reports are submitted to the BOARD on a timely basis;

Further, the monitoring physician shall otherwise monitor DOCTOR CLARK and provide the BOARD with quarterly reports on the doctor's progress and status. DOCTOR CLARK shall ensure that such reports are forwarded to the BOARD on a quarterly basis. In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, DOCTOR CLARK must immediately so notify the BOARD in writing, and make arrangements acceptable to the BOARD for another monitoring physician as soon as practicable. DOCTOR CLARK shall further ensure that the previously designated monitoring physician also notifies the BOARD directly of the inability to continue to serve and the reasons therefore;

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

### **Rehabilitation Program**

13. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR CLARK shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or Caduceus, no less than three (3) times per week, to include participation in at least one Caduceus meeting per week or, if DOCTOR CLARK is unable to attend this required Caduceus meeting, one aftercare meeting per week at a Board approved treatment provider may be substituted. Substitution of any other specific program must receive prior BOARD approval;

DOCTOR CLARK shall submit with each quarterly declaration required under Paragraph 2 of this CONSENT AGREEMENT acceptable documentary evidence of continuing compliance with this program;

### **Approval of Employment**

14. DOCTOR CLARK shall obtain the prior approval of the BOARD for any medical practice or employment related to the health care fields. Prior to approval or disapproval of the proposed employment, the BOARD shall consider, among other factors, Dr. Karaffa's opinion that

DOCTOR CLARK's immediate practice of medicine should be in a group setting, the adequacy and continuity of supervision, and the feasibility of restricted access to controlled substances, which will ensure the protection of the public;

**Aftercare**

15. DOCTOR CLARK shall maintain continued compliance with the terms of the advocacy contract entered into with the Ohio Physicians Effectiveness Program and with any aftercare contract entered into with his treatment provider, provided that, where terms of the advocacy contract or aftercare contract conflict with terms of this CONSENT AGREEMENT, the terms of this CONSENT AGREEMENT shall control;

**Releases**

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

**Required Reporting by Licensee**

17. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR CLARK 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 CLARK shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments;
18. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR CLARK 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 CLARK 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 CLARK shall provide this BOARD with a copy of the return receipt as proof of notification within thirty (30) days of receiving that return receipt;

#### **VIOLATION OF PROBATIONARY TERMS**

19. Any violation of Paragraph 8 or Paragraph 9 of this CONSENT AGREEMENT shall constitute grounds to revoke or permanently revoke DOCTOR CLARK's certificate. DOCTOR CLARK agrees that the minimum discipline for such a violation shall include actual license suspension. This paragraph does not limit the BOARD's authority to suspend, revoke or permanently revoke DOCTOR CLARK's certificate based on other violations of this CONSENT AGREEMENT;
20. DOCTOR CLARK AGREES that if any declaration or report required by this CONSENT AGREEMENT is not received in the BOARD's offices on or before its due date, DOCTOR CLARK shall cease practicing beginning the day next following receipt from the BOARD of notice of non-receipt, either by writing, by 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 in violation of Section 4731.41 of the Revised Code;
21. DOCTOR CLARK AGREES that if, without prior permission from the BOARD, he fails to submit to random screenings for drugs and alcohol at least as frequently as required by Paragraph 10 of this CONSENT AGREEMENT, he shall cease practicing immediately upon receipt from the BOARD of notice of the violation and shall refrain from practicing for thirty (30) days for the first instance of a single missed screen. Practice during this time period shall be considered unlicensed practice in violation of Section 4731.41 of the Revised Code; and,
22. DOCTOR CLARK AGREES that if he fails to participate in an alcohol and drug rehabilitation program at least as frequently as required by Paragraph 13 of this CONSENT AGREEMENT, he shall cease practicing immediately upon receipt from the BOARD of notice of the violation, and shall refrain from practicing for fifteen (15) days following a first missed meeting. Practice during this time period shall be considered unlicensed practice in violation of Section 4731.41 of the Revised Code.

### **FAILURE TO COMPLY**

If, in the discretion of the Secretary and Supervising Member of the BOARD, DOCTOR CLARK 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 DOCTOR CLARK has violated any term, condition or limitation of this CONSENT AGREEMENT, DOCTOR CLARK 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**

DOCTOR CLARK shall not request termination of this CONSENT AGREEMENT for a minimum of eight (8) years. In addition, DOCTOR CLARK shall not request modification to the probationary terms, limitations and conditions contained herein for at least one (1) 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**

DOCTOR CLARK 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.

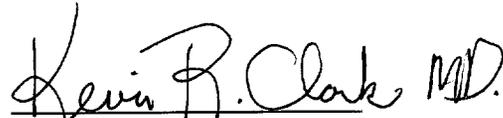
Any action initiated by the BOARD based on alleged violations of this CONSENT AGREEMENT shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

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

  
\_\_\_\_\_  
KEVIN R. CLARK, M.D.

8/30/00  
DATE

  
\_\_\_\_\_  
ANAND G. GARG, M.D.  
Secretary

09/13/00  
DATE

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

9/19/00  
DATE

  
\_\_\_\_\_  
ANNE B. STRAIT, ESQ.  
Assistant Attorney General

9/18/00  
DATE