

CONSENT AGREEMENT
BETWEEN
MICHAEL A. NOWAK, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

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

MICHAEL A. NOWAK, 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.

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, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for any violation of Sections 4731.22(B)(1) through (B)(26), Ohio Revised Code.
- B. THE STATE MEDICAL BOARD OF OHIO enters into this CONSENT AGREEMENT in lieu of further formal proceedings based upon the violation of Sections 4731.22(B)(11) and (13) as alleged in the March 13, 1991 Notice of Opportunity for Hearing, 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. MICHAEL A. NOWAK, M.D., is licensed to practice medicine and surgery in the State of Ohio.
- D. MICHAEL A. NOWAK, M.D., admits to the factual allegations contained in the March 13, 1991 Notice of Opportunity for Hearing. DR. NOWAK further admits that he suffers from the disease of alcoholism.

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

1. The certificate of MICHAEL A. NOWAK, M.D., to practice medicine and surgery in the State of Ohio shall be REVOKED. Such revocation is stayed, and MICHAEL A. NOWAK'S certificate is hereby indefinitely SUSPENDED for a minimum period of three (3) years.
2. The BOARD shall not consider reinstatement of MICHAEL A. NOWAK'S certificate to practice unless and until all of the following minimum requirements are met:
 - a. MICHAEL A. NOWAK, M.D. shall submit an application for reinstatement, accompanied by appropriate fees.
 - b. Within thirty (30) days after the effective date of this CONSENT AGREEMENT, or as otherwise approved by the BOARD, MICHAEL A. NOWAK, M.D., shall submit to appropriate treatment, as determined by an informed assessment of his current needs. Such assessment shall be performed by a psychiatrist approved by the BOARD to evaluate MICHAEL A. NOWAK'S current needs including those with respect to alcohol and sexual problems. Prior to the initial assessment, MICHAEL A. NOWAK, M.D., shall provide the approved psychiatrist with a copy of the March 13, 1991 Notice of Opportunity for Hearing and this CONSENT AGREEMENT. The BOARD may provide any other documentation which it may deem appropriate or helpful to that psychiatrist. Within ten (10) days after completion of the initial assessment, MICHAEL A. NOWAK, M.D., shall cause a written report to be submitted to the BOARD from the approved psychiatrist, which report shall include:
 - i. a detailed plan of recommended treatment based upon the psychiatrist's informed assessment of MICHAEL A. NOWAK'S current needs;

- ii. a statement indicating that MICHAEL A. NOWAK, M.D., entered into or commenced the recommended approved treatment program(s) within forty-eight (48) hours of its determination;
 - iii. a copy of a treatment contract(s) signed by MICHAEL A. NOWAK, M.D., establishing the terms of treatment and aftercare, and
 - iv. a statement indicating that the treatment provider(s) will immediately report to the BOARD any failure by MICHAEL A. NOWAK, M.D., to comply with the terms of the treatment contract(s) during inpatient or outpatient treatment or aftercare.
- c. MICHAEL A. NOWAK, M.D. shall provide the BOARD with a certification from the approved treatment provider(s) that MICHAEL A. NOWAK, M.D. has successfully completed any required inpatient treatment and is in continuing full compliance with regard to any required outpatient treatment and/or aftercare.
- d. MICHAEL A. NOWAK, M.D. shall provide the BOARD with a written report of evaluation by a psychiatrist acceptable to the BOARD indicating that MICHAEL A. NOWAK'S ability to practice has been assessed and that MICHAEL A. NOWAK, M.D. has been found capable of practicing in accordance with acceptable and prevailing standards of care. The report shall describe with particularity the bases for this determination and shall set forth any recommended limitations upon MICHAEL A. NOWAK'S practice.
- e. MICHAEL A. NOWAK, M.D. shall provide the BOARD with evaluations from a minimum of two (2) physicians acceptable to the BOARD stating that MICHAEL A. NOWAK, M.D. is not impaired from practicing medicine by reason of alcohol or drug addiction 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.

- f. MICHAEL A. NOWAK, M.D. shall provide satisfactory documentation of continuous participation in a drug and alcohol rehabilitation program acceptable to the BOARD, such as AA, NA, or Caduceus, no less than three (3) times per week.
 - g. The BOARD may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional training, passing of an examination acceptable to the BOARD and/or restrictions or limitations upon the extent, scope, or type of practice undertaken.
3. Upon reinstatement, MICHAEL A. NOWAK'S certificate shall, in addition to any limitations or restrictions imposed pursuant to paragraph 2(g) above, be subject to the following probationary terms, conditions, and limitations for a period of two (2) years:
- a. MICHAEL A. NOWAK, M.D. shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
 - b. MICHAEL A. NOWAK, M.D. shall submit quarterly declarations under penalty of perjury stating whether or not there has been compliance with all the provisions of probation.
 - c. MICHAEL A. NOWAK, M.D. shall appear in person for interviews before the full BOARD or its designated representative at three-month intervals, or as otherwise requested by the BOARD.
 - d. In the event that MICHAEL A. NOWAK, M.D. should leave Ohio for three (3) consecutive months, or reside or practice outside the State, MICHAEL A. NOWAK, M.D. must notify the BOARD in writing of the dates of departure and return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period.
 - e. MICHAEL A. NOWAK, M.D. shall not prescribe, order, dispense, administer, or possess (except as prescribed for MICHAEL A. NOWAK'S use by another so authorized by law) any controlled substances without prior approval by the BOARD.

- f. MICHAEL A. NOWAK, M.D. shall continue with his treatment plan at such intervals as are deemed appropriate by the provider(s) or treating psychiatrist, but not less than once per month, until such time as the BOARD determines that no further treatment is necessary. To make this determination, the BOARD shall require quarterly reports from the provider(s) or treating psychiatrist. MICHAEL A. NOWAK, M.D. shall ensure that these reports are forwarded to the BOARD on a quarterly basis, or as otherwise directed by the BOARD.
- g. MICHAEL A. NOWAK, M.D. 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 MICHAEL A. NOWAK'S history of chemical dependency.
- h. MICHAEL A. NOWAK, M.D. shall abstain completely from the use of alcohol.
- i. MICHAEL A. NOWAK, M.D. shall submit to random urine screenings for alcohol and drugs.
- j. MICHAEL A. NOWAK, M.D. shall ensure that all screening reports are forwarded directly to the BOARD on a monthly basis. Within thirty (30) days of the effective date of the reinstatement of his certificate, MICHAEL A. NOWAK, M.D. shall submit to the BOARD for its prior approval the name of a supervising physician to whom MICHAEL A. NOWAK, M.D. 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. In the event that the designated supervising physician becomes unable or unwilling to so serve, MICHAEL A. NOWAK, M.D. must immediately notify the BOARD in writing, and make arrangements acceptable to the BOARD for another supervising physician as soon as practicable.

- k. MICHAEL A. NOWAK, M.D., shall have a monitoring physician approved by the BOARD, who shall monitor him and provide the BOARD with reports on MICHAEL A. NOWAK'S progress and status. MICHAEL A. NOWAK, M.D. shall ensure that said 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, MICHAEL A. NOWAK must immediately so notify the BOARD in writing, and make arrangements acceptable to the BOARD for another physician to monitor his progress and status as soon as practicable.
 - l. MICHAEL A. NOWAK, M.D. shall submit blood or urine specimens for analysis without prior notice at such times as the BOARD may request.
 - m. MICHAEL A. NOWAK, M.D. shall maintain participation in an alcohol and drug rehabilitation program, such as AA, NA, or Caduceus, acceptable to the BOARD, no less than two (2) times per week. At MICHAEL A. NOWAK'S appearances before the BOARD or its designated representative, MICHAEL A. NOWAK, M.D. shall submit acceptable documentary evidence of continuing compliance with this program.
 - n. MICHAEL A. NOWAK, M.D. shall provide a copy of this CONSENT AGREEMENT to all employers and the Chief of Staff at each hospital where he has, applies for, or obtains privileges.
4. Upon successful completion of probation, MICHAEL A. NOWAK'S certificate will be fully restored except with respect to any restrictions or limitations imposed pursuant to paragraph 2(g) above.

If, in the discretion of the Secretary of THE STATE MEDICAL BOARD OF OHIO, MICHAEL A. NOWAK, M.D., appears to have violated

or breached any terms or conditions of this CONSENT 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 CONSENT AGREEMENT.

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.

MICHAEL A. NOWAK, M.D., 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.

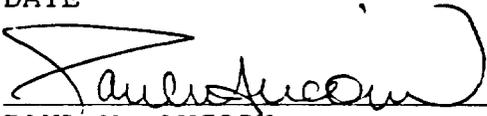
Further, this information may be reported to appropriate organizations, data banks and governmental bodies.

The terms and conditions of this CONSENT AGREEMENT shall become effective thirty (30) days from the last date of signature below. In the thirty (30) day interim, MICHAEL A. NOWAK, M.D. shall not undertake the care of any patient not already under his care.

Michael A. Nowak, MD
MICHAEL A. NOWAK, M.D.

Henry G. Cramblett, M.D.
HENRY G. CRAMBLETT, M.D.
Secretary

5-30-91
DATE

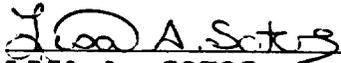

PAUL M. AUCOIN
Attorney for
MICHAEL A. NOWAK, M.D.

6/3/91
DATE


TIMOTHY S. JOST
Supervising Member

5/30/91
DATE

5/31/91
DATE


LISA A. SOTOS
Assistant Attorney General

6/4/91
DATE



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

March 13, 1991

Michael A. Nowak, M.D.
2850 Westbrook Drive
Toledo, OH 43613

Dear Doctor Nowak:

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 December 4, 1990 you were convicted in the Franklin County Municipal Court of one (1) count of Public indecency, a misdemeanor of the fourth degree, in violation of Ohio Revised Code Section 2907.09(A)(1). The underlying acts which resulted in this conviction occurred in your course of practice.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "a plea of guilty to, or a judicial finding of guilt of, a misdemeanor committed in the course of practice," as that clause is used in Section 4731.22(B)(11), Ohio Revised Code.

Further, such acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "a plea of guilty to, or a judicial finding of guilt of, a misdemeanor involving moral turpitude," as that clause is used in Section 4731.22(B)(13), 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.

Mailed 3/14/91

Michael A. Nowak, M.D.
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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,



Henry G. Cramblett, M.D.
Secretary

HGC:jmb
Enclosures:

CERTIFIED MAIL #P 055 328 555
RETURN RECEIPT REQUESTED

cc: Paul Auchoin, Esq.