

JUN 12 2000

STATE MEDICAL BOARD
2000 JUN 12 A 9 52

STEP II
CONSENT AGREEMENT
BETWEEN
ROBERT R. DAIBER, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

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

ROBERT R. DAIBER, 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 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 of the enumerated violations.
- B. THE STATE MEDICAL BOARD OF OHIO enters into this CONSENT AGREEMENT in lieu of further formal proceedings based upon the violations of Section 4731.22, Ohio Revised Code, as set forth in the Notice of Immediate Suspension and Opportunity for Hearing issued by the STATE MEDICAL BOARD OF OHIO on October 11, 2000, attached hereto as Exhibit A and incorporated by this reference, and formal proceedings based upon the additional evidence of DOCTOR DAIBER's violation of Section 4731.22(B)(26), Ohio Revised Code, contained in paragraph E of the November 9, 2000 Step I Consent Agreement between ROBERT R. DAIBER, M.D., and THE STATE MEDICAL BOARD OF OHIO, attached hereto as Exhibit B and incorporated by this reference, and in paragraphs E through J below. THE STATE MEDICAL BOARD OF OHIO expressly reserves the right to institute formal proceedings based upon any other violations of

STEP II CONSENT AGREEMENT

ROBERT R. DAIBER, M.D.

PAGE 2

Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement.

- C. ROBERT R. DAIBER, M.D., is applying for reinstatement of his license to practice medicine and surgery in the State of Ohio, which was suspended pursuant to the terms of the November 9, 2000 Step I Consent Agreement between ROBERT R. DAIBER, M.D., and THE STATE MEDICAL BOARD OF OHIO.
- D. ROBERT R. DAIBER, M.D., STATES that his Michigan medical license was suspended effective May 11, 2001, for a minimum of six months and one day pursuant to the terms of an April 11, 2001 Consent Order and Stipulation entered by the Michigan Board of Medicine. DOCTOR DAIBER STATES that such Consent Order and Stipulation is based upon the issuance of, and matters addressed in, the Notice of Immediate Suspension and Opportunity for Hearing and the Step I Consent Agreement, as referenced in paragraph B above, and his failure to notify the Michigan Department of Consumer and Industry Services of his January 31, 2000 conviction of Drug Paraphernalia Offenses, a conviction that is included in paragraph E of such Step I Consent Agreement.
- E. ROBERT R. DAIBER, M.D., ADMITS that he relapsed on alcohol on April 15, 2000. DOCTOR DAIBER STATES that this relapse was limited to his consumption of three beers on April 15, 2000, and further STATES that he has otherwise maintained sobriety since his discharge from The Toledo Hospital in March 2000. DOCTOR DAIBER further STATES that he apprised the treatment teams at both Brighton Hospital, a BOARD approved treatment provider in Brighton, Michigan, and Shepherd Hill Hospital, a BOARD approved treatment provider in Newark, Ohio, of his complete history of use of alcohol and drugs, including the April 15, 2000 relapse, during his evaluations (described below).
- F. ROBERT R. DAIBER, M.D., ADMITS that from December 4, 2000, through December 6, 2000, he underwent a seventy-two (72) hour inpatient examination at Brighton Hospital for purposes of determining his treatment needs. DOCTOR DAIBER further ADMITS that during such examination his diagnoses were determined to be opioid dependency, alcohol dependency, and cannabis dependency, each in early full remission. DOCTOR DAIBER further ADMITS that although residential treatment was not recommended, he was advised to enter a health professional group therapy program and to comply with the requirements of the advocacy contract into which he entered with the

STEP II CONSENT AGREEMENT

ROBERT R. DAIBER, M.D.

PAGE 3

Ohio Physicians Effectiveness Program; to continue treatment with his psychiatrist, with individual therapy as needed; to continue weekly random urine screenings for drugs and alcohol; and to continue to attend at least three AA or Caduceus meetings per week.

- G. ROBERT R. DAIBER, M.D., ADMITS that he entered into an aftercare contract with Brighton Hospital Health Professional Recovery Services on January 16, 2001. DOCTOR DAIBER STATES that he remains compliant with such aftercare contract and his advocacy contract with the Ohio Physicians Effectiveness Program to date.
- H. ROBERT R. DAIBER, M.D. STATES, and THE STATE MEDICAL BOARD OF OHIO ACKNOWLEDGES, that Jeffrey Paul Berger, M.D., of Brighton Hospital, and Frederick N. Karaffa, M.D., of Shepherd Hill Hospital, have provided written reports indicating that DOCTOR DAIBER'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.
- I. ROBERT R. DAIBER, M.D., STATES, and THE STATE MEDICAL BOARD OF OHIO ACKNOWLEDGES, that Lurley J. Archambeau, M.D., a psychiatrist approved by the Board to conduct a psychiatric examination of DOCTOR DAIBER, has provided a report indicating that DOCTOR DAIBER has been treating with him, as well as a psychologist, since June 2000; that DOCTOR DAIBER has a diagnosis of mild Chronic Depressive Disorder, in addition to chemical dependency; and that throughout his treatment period he has remained stable and shown signs of increasing improvement in his general mood and interpersonal activity. In addition, Dr. Archambeau has reported that DOCTOR DAIBER'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. ROBERT R. DAIBER, M.D., STATES, and THE STATE MEDICAL BOARD OF OHIO ACKNOWLEDGES, that DOCTOR DAIBER has fulfilled the conditions for reinstatement of his certificate to practice medicine and surgery in the State of Ohio, as established in the November 2000 Consent Agreement between ROBERT R. DAIBER, M.D., and THE STATE MEDICAL BOARD OF OHIO.

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 ROBERT R. DAIBER, M.D., to practice medicine and surgery in the State of Ohio shall be reinstated, and ROBERT R. DAIBER, 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 DAIBER shall obey all federal, state and local laws, and all rules governing the practice of medicine in Ohio, and all terms of probation imposed by the Court of Common Pleas, Lucas County, Ohio, in criminal case number G-4801-CR-0200001472, in which DOCTOR DAIBER, on or about May 8, 2000, pleaded guilty to one count of Illegal Processing of Drug Documents in violation of Section 2925.23, Ohio Revised Code, and was found eligible for intervention in lieu of conviction pursuant to Section 2951.041;
2. DOCTOR DAIBER 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 DAIBER 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 DAIBER written notification of scheduled appearances, it is DOCTOR DAIBER'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 DAIBER shall immediately submit to the BOARD a written request to be notified of his next scheduled appearance;

4. In the event that DOCTOR DAIBER should leave Ohio for three (3) continuous months, or reside or practice outside the State, DOCTOR DAIBER 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 DAIBER 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 DAIBER 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 the due date for DOCTOR DAIBER 's quarterly declaration, or as otherwise directed by the BOARD;
7. DOCTOR DAIBER shall not, without prior BOARD approval, administer, dispense, or possess (except as allowed under Paragraph 9 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 DAIBER to administer or dispense controlled substances, DOCTOR DAIBER shall keep a log of all controlled substances prescribed, administered or dispensed. Such log shall be submitted in the format approved by the BOARD thirty (30) days prior to the due date for DOCTOR DAIBER 's quarterly declaration, or as otherwise directed by the BOARD;
8. DOCTOR DAIBER shall refrain from self-treating and from treating family members, except in the event of a life-threatening emergency;

Sobriety

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

Drug and Alcohol Screens/Supervising Physician

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

12. The BOARD retains the right to require, and DOCTOR DAIBER agrees to submit, blood or urine specimens for analysis at DOCTOR DAIBER's expense upon the BOARD's request and without prior notice. DOCTOR DAIBER'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

13. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR DAIBER shall submit for the BOARD's prior approval the name of a monitoring physician, who shall review DOCTOR DAIBER'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 DAIBER 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 DAIBER'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 DAIBER and provide the BOARD with quarterly reports on the doctor's progress and status. DOCTOR DAIBER 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 DAIBER must immediately so notify the BOARD in writing, and make arrangements acceptable to the BOARD for another monitoring physician as soon as practicable. DOCTOR DAIBER 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 DAIBER's quarterly declaration. It is DOCTOR DAIBER's responsibility to ensure that reports are timely submitted;

Rehabilitation Program

14. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR DAIBER 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. Substitution of any other specific program must receive prior BOARD approval;

On a quarterly basis, DOCTOR DAIBER shall submit acceptable documentary evidence of continuing compliance with this program. It is DOCTOR DAIBER's responsibility to ensure that such documentary evidence is received in the BOARD's offices no later than the due date for DOCTOR DAIBER's quarterly declaration;

Psychiatric Treatment/Psychotherapy

15. DOCTOR DAIBER shall continue psychiatric treatment with Lurley J. Archambeau, M.D., or another psychiatrist approved in advance by the BOARD, at least once every two months, or as otherwise directed by the BOARD. DOCTOR DAIBER shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered for his psychiatric disorder.

Further, DOCTOR DAIBER shall continue to participate in individual counseling with Jay K. Cooper, M.Ed., or another appropriately licensed mental health care professional approved in advance by the BOARD, at least once per month, or as otherwise directed by the BOARD.

DOCTOR DAIBER shall ensure that reports are forwarded by both his treating psychiatrist and counselor to the BOARD on a quarterly basis, or as otherwise directed by the BOARD. These reports shall contain information describing DOCTOR DAIBER's current treatment plan and any changes that have been made to the treatment plan since the prior report; DOCTOR DAIBER's compliance with his treatment plan; DOCTOR DAIBER's mental status; DOCTOR DAIBER's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. DOCTOR DAIBER shall ensure that his treating psychiatrist and his counselor immediately notify the Board of his failure to comply with his treatment plan and/or any determination that DOCTOR DAIBER is unable to practice. It is DOCTOR DAIBER's responsibility to ensure that these quarterly reports are received in the BOARD's offices no later than the due date for DOCTOR DAIBER's quarterly declaration;

Additional Treatment

16. DOCTOR DAIBER shall continue treatment with Christine D. Ellis, M.D., or another physician knowledgeable in the area of addiction medicine and approved in advance by the BOARD, at least once per month, or as otherwise directed by the BOARD. DOCTOR DAIBER shall comply with his addiction treatment plan, including taking medications as prescribed and/or ordered. DOCTOR DAIBER shall ensure that reports are forwarded by his treating addictionologist to the BOARD on a quarterly basis, or as otherwise directed by the BOARD. The addictionologist's reports shall contain information describing DOCTOR DAIBER's current treatment plan and any changes that have been made to the treatment plan since the prior report; DOCTOR DAIBER's compliance with his treatment plan; DOCTOR DAIBER's status; DOCTOR DAIBER's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. DOCTOR DAIBER shall ensure that his treating addictionologist immediately notifies the Board of his failure to comply with his addiction treatment plan and/or any determination that DOCTOR DAIBER is unable to practice due to his diagnosed chemical dependency. It is DOCTOR DAIBER's responsibility to ensure that quarterly reports are received in the BOARD's offices no later than the due date for DOCTOR DAIBER's quarterly declaration;

17. DOCTOR DAIBER shall take Naltrexone on a daily basis with observed administration, unless his treating addictionologist and a physician affiliated with a BOARD approved treatment provider each assess DOCTOR DAIBER and notify the BOARD in writing that discontinuation of Naltrexone treatment is medically warranted.

On a quarterly basis, DOCTOR DAIBER shall submit acceptable documentary evidence of continuing compliance with this program. It is DOCTOR DAIBER's responsibility to ensure that such documentary evidence is received in the BOARD's offices no later than the due date for DOCTOR DAIBER's quarterly declaration;

Aftercare/Physicians Health Program

18. DOCTOR DAIBER shall maintain continued compliance with the terms of the aftercare contract entered into with Brighton Hospital and the advocacy contract entered into with the Ohio Physicians Effectiveness Program or, if approved in advance by the BOARD, another appropriate physicians health program, provided that, where terms of the aftercare

contract or advocacy contract conflict with terms of this CONSENT AGREEMENT, the terms of this CONSENT AGREEMENT shall control;

Releases

19. DOCTOR DAIBER shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment providers 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

20. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR DAIBER 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 DAIBER 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;
21. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR DAIBER 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 DAIBER 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 DAIBER 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

22. Any violation of Paragraph 9 or Paragraph 10 of this CONSENT AGREEMENT shall constitute grounds to revoke or permanently revoke DOCTOR DAIBER's certificate. DOCTOR DAIBER 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 DAIBER's certificate based on other violations of this CONSENT AGREEMENT;

23. DOCTOR DAIBER 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 DAIBER 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;
24. DOCTOR DAIBER 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 11 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,
25. DOCTOR DAIBER AGREES that if he fails to participate in an alcohol and drug rehabilitation program at least as frequently as required by Paragraph 14 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 DAIBER 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 DAIBER has violated any term, condition or limitation of this CONSENT AGREEMENT, DOCTOR DAIBER 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 DAIBER shall not request termination of this CONSENT AGREEMENT for a minimum of five (5) years. In addition, DOCTOR DAIBER 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 DAIBER 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 DAIBER 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.



ROBERT R. DAIBER, M.D.

6-8-01

DATE



ANAND G. GARG, M.D.
Secretary

6/13/01

DATE


GREGORY D. RUSSELL, ESQ.
Attorney for Dr. DAIBER

6/11/01
DATE


RAYMOND J. ALBERT
Supervising Member

6/13/01
DATE


REBECCA J. ALBERS, ESQ.
Assistant Attorney General

6/13/01
DATE

NOV - 7 2000

**STEP I
CONSENT AGREEMENT
BETWEEN
ROBERT R. DAIBER, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO**

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

ROBERT R. DAIBER, 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 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 of the enumerated violations.
- B. THE STATE MEDICAL BOARD OF OHIO enters into this CONSENT AGREEMENT in lieu of further formal proceedings based upon the violations of Section 4731.22, Ohio Revised Code, as set forth in the Notice of Immediate Suspension and Opportunity for Hearing issued by the STATE MEDICAL BOARD OF OHIO on October 11, 2000, attached hereto as Exhibit A and incorporated by this reference, and formal proceedings based upon the additional evidence of DOCTOR DAIBER's violation of Section 4731.22(B)(26), Ohio Revised Code, contained in paragraph E. below. THE STATE MEDICAL BOARD OF OHIO 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. ROBERT R. DAIBER, M.D.'s license to practice medicine and surgery in the State of Ohio is currently suspended pursuant to the terms of the Notice of Immediate Suspension and Opportunity for Hearing issued by THE STATE MEDICAL BOARD OF OHIO on October 11, 2000, attached hereto as Exhibit A and incorporated herein by reference.

- D. ROBERT R. DAIBER, M.D., STATES that he is also licensed to practice medicine and surgery in the State of Michigan.
- E. ROBERT R. DAIBER, M.D., ADMITS the factual and legal allegations set forth in the Notice of Immediate Suspension and Opportunity for Hearing issued by THE STATE MEDICAL BOARD OF OHIO on October 11, 2000, attached hereto as Exhibit A and incorporated herein by reference.

Further, DOCTOR DAIBER ADMITS that on or about January 31, 2000, in the Sylvania, Ohio, Municipal Court, he was convicted of Driving While Under the Influence of Alcohol or Drugs, a violation of Section 4511.19, Ohio Revised Code, and of Drug Paraphernalia Offenses, a violation of Section 513.12, Sylvania Codified Ordinances. DOCTOR DAIBER further ADMITS that such convictions and the acts underlying such convictions constitute additional evidence of his impairment.

- F. ROBERT R. DAIBER, M.D., STATES that since being discharged from The Toledo Hospital in March 2000 upon completion of his initial treatment for chemical dependency, he has abstained completely from the use of alcohol and 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 his history of chemical dependency. DOCTOR DAIBER further STATES that he has remained fully compliant with the advocacy contract into which he entered with the Ohio Physicians Effectiveness Program on or about August 17, 2000.
- G. ROBERT R. DAIBER, M.D., ADMITS that he has previously participated in treatment related to hostility management issues and that such treatment was undertaken upon the recommendation of another governmental entity.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, ROBERT R. DAIBER, 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 immediate suspension of ROBERT R. DAIBER, M.D.'s certificate to practice medicine and surgery in the State of Ohio, stemming from the Notice of Immediate Suspension and Opportunity for Hearing issued by the Board on October 11, 2000, is hereby terminated. Further, the certificate of ROBERT R. DAIBER, M.D., to practice medicine and surgery in the State of Ohio shall be

SUSPENDED for an indefinite period of time, but not less than six (6) months from the effective date of this CONSENT AGREEMENT;

Sobriety

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

Releases; Quarterly Declarations and Appearances

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

Drug & Alcohol Screens; Supervising Physician

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

Inpatient Examination/Treatment/Aftercare

8. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR DAIBER shall submit to a seventy-two (72) hour inpatient examination to be conducted by a treatment provider approved under Section 4731.25, Ohio Revised Code, other than The Toledo Hospital, for purposes of determining his current treatment needs. Prior to the examination, DOCTOR DAIBER shall provide the approved treatment provider conducting such examination with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Consent Agreement.

If current treatment needs are identified, DOCTOR DAIBER shall enter into treatment, to include inpatient or residential treatment provided in accordance with Rule 4731-16-08(A)(13), Ohio Administrative Code, to be provided by a treatment provider approved under Section 4731.25, Ohio Revised Code, other than The Toledo Hospital, within forty-eight (48) hours of the determination that treatment is necessary; shall complete any required treatment without interruption; and shall enter into a post-discharge aftercare contract, which complies with Rule 4731-16-10, Ohio Administrative Code, with such treatment provider. If no current treatment needs are identified, DOCTOR DAIBER shall enter into an aftercare contract, which complies with Rule 4731-16-10, Ohio Administrative Code, with such treatment provider.

CONDITIONS FOR REINSTATEMENT

9. The BOARD shall not consider reinstatement of DOCTOR DAIBER's certificate to practice medicine and surgery unless and until all of the following conditions are met:
 - a. DOCTOR DAIBER shall submit an application for reinstatement, accompanied by appropriate fees, if any;
 - b. DOCTOR DAIBER 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, Ohio Revised Code, other than The Toledo Hospital, that DOCTOR DAIBER has successfully completed any required inpatient or residential treatment, including, but not limited to any inpatient or residential treatment required by paragraph 8. above;
- ii. Evidence of continuing full compliance with an aftercare contract and consent agreement;
- iii. Three written reports indicating that DOCTOR DAIBER's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care.

Two reports shall be made by individuals or providers approved by the BOARD under Section 4731.25, Ohio Revised Code, other than The Toledo Hospital, for making such assessments. Prior to the assessments, DOCTOR DAIBER 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 DOCTOR DAIBER, and any conditions, restrictions, or limitations that should be imposed on DOCTOR DAIBER's practice. The reports shall also describe the basis for the evaluator's determinations.

One report shall be made by a psychiatrist, approved in advance by the BOARD, who shall conduct a psychiatric examination of DOCTOR DAIBER. Prior to the examination, DOCTOR DAIBER shall provide the psychiatrist with copies of patient records from any prior evaluations and/or treatment that he has received, and a copy of this Consent Agreement. The report from the evaluating psychiatrist shall include the psychiatrist's diagnoses and conclusions; any recommendations for care, counseling, and treatment for the psychiatric diagnoses; any conditions, restrictions, or limitations that should be imposed on DOCTOR DAIBER's practice; and the basis for the psychiatrist's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three (3) months

immediately preceding any application for reinstatement pursuant to paragraph 9.a. above.

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

10. In the event that DOCTOR DAIBER 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 DAIBER's fitness to resume practice.

REQUIRED REPORTING BY LICENSEE

11. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR DAIBER 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 DAIBER 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 DAIBER shall provide this BOARD with a copy of the return receipt as proof of notification within thirty (30) days of receiving that return receipt.
12. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR DAIBER 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 DAIBER 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 DAIBER 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 DAIBER 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 DAIBER 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

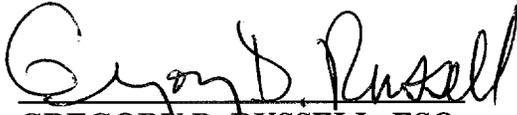
It is expressly understood that this CONSENT AGREEMENT is subject to ratification by the BOARD prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

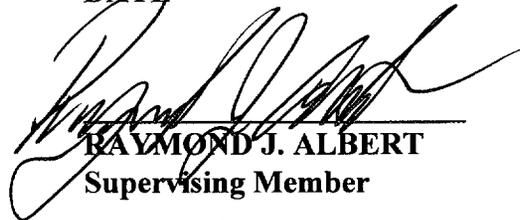

ROBERT R. DAIBER, M.D.


ANAND G. GARG, M.D.
Secretary

11-6-00
DATE

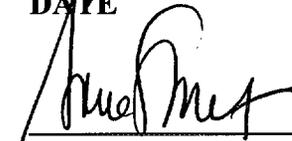
11/8/00
DATE


GREGORY D. RUSSELL, ESQ.
Attorney for Dr. Daiber


RAYMOND J. ALBERT
Supervising Member

11/7/00
DATE

11/9/00
DATE


ANNE B. STRAIT, ESQ.
Assistant Attorney General

11/8/00
DATE



State Medical Board of Ohio

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

NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING

October 11, 2000

Robert R. Daiber, M.D.
7548 Red Pines Drive
Sylvania, OH 43560

Dear Doctor Daiber:

In accordance with Sections 2929.24 and/or 3719.12, Ohio Revised Code, the Office of the Prosecuting Attorney of Lucas County, Ohio, reported that on or about May 8, 2000, in the Court of Common Pleas of Lucas County, Ohio, you pleaded guilty to one count of Illegal Processing of Drug Documents in violation of Section 2925.23(B)(1) and (F)(2), Ohio Revised Code, and were found eligible for intervention in lieu of conviction pursuant to Section 2951.041, Ohio Revised Code.

Therefore, pursuant to Section 3719.121(C), Ohio Revised Code, you are hereby notified that your license to practice medicine and surgery in the State of Ohio is immediately suspended. Continued practice after this suspension shall be considered practicing medicine without a certificate in violation of Section 4731.41, Ohio Revised Code.

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 or place you on probation for one or more of the following reasons:

- (1) On or about May 8, 2000, in the Court of Common Pleas of Lucas County, Ohio, you pleaded guilty to one count of Illegal Processing of Drug Documents in violation of Section 2925.23(B)(1) and (F)(2), Ohio Revised Code, and were found eligible for intervention in lieu of conviction pursuant to Section 2951.041, Ohio Revised Code.

Mailed 10-12-00

Suspension

Robert R. Daiber, M.D.

Page 2

The acts underlying your guilty plea and the judicial finding of eligibility for intervention in lieu of conviction include that you wrote a prescription dated March 23, 1999, for Lortab, a schedule III controlled substance, using a false patient name. Then, on or about March 24, 1999, you presented such prescription at a pharmacy in the Lucas County, Ohio, area to be filled, and you signed a false name to the Pharmacy Patient Counseling / Eligibility Form. The Lortab tablets you obtained by such means were for your own use.

- (2) In addition, on or about the dates listed below, you issued prescriptions for the controlled substances and quantities listed below using a false patient name. These prescriptions were then filled at pharmacies in the Lucas County, Ohio, area.

<u>Written</u>	<u>Dispensed</u>	<u>Drug</u>	<u>Quantity</u>
7/2/98	7/5/98	Vicoprofen	10
8/20/98	8/20/98	Ativan	60
8/20/98	8/20/98	Restoril	30
8/25/98	8/26/98	Vicoprofen	60
8/25/98R	9/4/98	Vicoprofen	60
8/25/98R	9/14/98	Vicoprofen	60
9/24/98	9/24/98	Vicoprofen	10
9/25/98	9/25/98	Vicoprofen	5
1/8/99	1/9/99	Hydrocodone/APAP	60
1/8/99R	1/22/99	Hydrocodone/APAP	60
3/23/99	3/25/99	Hydrocodone/APAP	30
3/23/99R	4/24/99	Hydrocodone/APAP	90
3/23/99R	5/13/99	Hydrocodone/APAP	90

Further, when you picked-up the prescriptions dispensed on or about April 24, 1999, and May 13, 1999, you signed a false name to the Pharmacy Patient Counseling / Eligibility Form.

The controlled substances that you obtained, as listed above, were for your own use. You also personally used drug samples of Vicoprofen, Lortab, Restoril, and Ambien obtained from your office.

- (3) You participated in Level 1 intensive outpatient treatment at The Toledo Hospital Alcohol and Drug Treatment Center from March 6, 2000, through March 30, 2000. At that time, your diagnoses included alcohol dependence, opiate dependence (in early full remission), cannabis abuse, and anxiolytic abuse.

Your plea of guilty and/or the judicial finding of eligibility for intervention in lieu of conviction, as alleged in paragraph (1) above, individually and/or collectively, constitute “[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,” as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

Further, your guilty plea and/or the judicial finding of eligibility for intervention in lieu of conviction, as alleged in paragraph (1) above, and/or your acts, conduct, and/or omissions underlying your plea of guilty and/or the judicial finding of eligibility for intervention in lieu of conviction, as alleged in paragraph (1) above, individually and/or collectively, constitute “[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug,” as those clauses are used in Section 4731.22(B)(3), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.23, Ohio Revised Code, Illegal Processing of Drug Documents.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute “[c]ommission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice,” as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, as in effect prior to March 9, 1999, to wit: Section 2925.11(A), Ohio Revised Code, Possession of Drugs, and/or “[c]ommission 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,” as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, as in effect on and after March 9, 1999, to wit: Section 2925.11(A), Ohio Revised Code, Possession of Drugs.

Further, your acts, conduct, and/or omissions pertaining to the prescriptions dispensed on or about April 24, 1999, and May 13, 1999, as alleged in paragraph (2) 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 underlying your plea of guilty and/or the judicial finding of eligibility for intervention in lieu of conviction, as alleged in paragraph (1) above, and/or your acts, conduct, and/or omissions, as alleged in paragraph (2) above and occurring after November 11, 1998, 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 4731-11-08, Ohio Administrative Code.

Further, your acts, conduct, and/or omissions underlying your guilty plea and the judicial finding of eligibility for intervention in lieu of conviction, as alleged in paragraph (1) above, and/or your acts, conduct, and/or omissions, as alleged in paragraphs (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, 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 (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, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, effective March 9, 1999, 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

Suspension
Robert R. Daiber, M.D.
Page 5

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,



Anand G. Garg, M.D.
Secretary

AGG/krt

Enclosures

CERTIFIED MAIL # Z 233 841 337
RETURN RECEIPT REQUESTED

cc: Gregory D. Russell, Esq.
Vorys, Sater, Seymour & Pease, LLP
52 East Gay Street
Columbus, Ohio 43216-1008

CERTIFIED MAIL # Z 233 841 336
RETURN RECEIPT REQUESTED