STATE MEDICAL BOARD
OF OHIO
2007 APR -4 P 12: 50

STEP II
CONSENT AGREEMENT
BETWEEN
DAVID B. AXELSON, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

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

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

BASIS FOR ACTION

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

A. The Board is empowered by Section 4731.22(B)(26), 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 "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice."

B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26), Ohio Revised Code, as set forth in Paragraphs E through G of the August 9, 2006 Step I Consent Agreement Between David B. Axelson, M.D., and the State Medical Board of Ohio [August 2006 Step I Consent Agreement], a copy of which is attached hereto and fully incorporated herein, as well as in Paragraphs E through H below. The Board expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement.

C. Dr. Axelson is applying for reinstatement of his license to practice medicine and surgery in the State of Ohio, license number 35.064318, which was indefinitely suspended, but not less than 180 days, pursuant to terms of the above-referenced August 2006 Step I Consent Agreement.

2007 APR -4 P 12:50
STATE MEDICAL BOARD
OF OHIO

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

E. Dr. Axelson admits that he entered treatment for chemical dependency at the Woods at Parkside [Parkside], a Board-approved treatment provider in Columbus, Ohio on or about July 17, 2006, and that he was discharged, treatment complete, on or about August 23, 2006.

F. Dr. Axelson states and the Board acknowledges receipt of information to support that he has remained compliant with the terms of his aftercare contract with Parkside which is effective from on or about October 16, 2006, to October 16, 2008; and with the terms of his advocacy contract with the Ohio Physician Health Program [OPHP], which is effective from on or about October 17, 2006, to October 17, 2011.

G. Dr. Axelson states, and the Board acknowledges receipt of information to support, that David Goldberg, D.O., Medical Director of Greene Hall, a Board-approved treatment provider in Xenia, Ohio, provided a written report indicating that Dr. Axelson'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, including that he have psychiatric therapy, with a psychiatrist who has experience with professionals dealing with alcohol and other substances of abuse and psychotherapy on a weekly basis for a minimum of a year after which the frequency of the psychiatric treatment is to be determined by his treating psychiatrist. Dr. Axelson states, and the Board acknowledges receipt of information to support, that Harry Nguyen , M.D., Medical Director of Parkside, provided a written report indicating that Dr. Axelson's ability to practice as 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.

H. Dr. Axelson states and the Board acknowledges receipt of information to support that Dr. Axelson has fulfilled the conditions for reinstatement of his certificate to practice medicine and surgery in the State of Ohio, as established in the above-referenced August 2006 Step I Consent Agreement between Dr. Axelson and the Board.

AGREED CONDITIONS

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

1. Dr. Axelson shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.

2. Dr. Axelson shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. The first quarterly declaration must be received in the Board's offices on the date his quarterly declaration would have been due pursuant to his August 2006 Step I Consent Agreement with the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. Dr. Axelson shall appear in person for an interview before the full Board or its designated representative. The first such appearance shall take place on the date his appearance would have been scheduled pursuant to his August 2006 Step I Consent Agreement with the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

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

5. In the event Dr. Axelson is found by the Secretary of the Board to have failed to comply with any provision of this Consent Agreement, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Consent Agreement.

MONITORING OF REHABILITATION AND TREATMENT

Drug Associated Restrictions

6. Dr. Axelson shall keep a log of all controlled substances prescribed. Such log shall be submitted, in the format approved by the Board, thirty days prior to Dr. Axelson's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Axelson shall make his patient records with regard to such prescribing available for review by an agent of the Board upon request.

7. Dr. Axelson shall not, without prior Board approval, administer, personally furnish, 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 Dr. Axelson to administer or personally furnish controlled substances, Dr. Axelson shall keep a log of all controlled substances prescribed, administered or personally furnished. Such log shall be submitted in the format approved by the Board thirty days prior to Dr. Axelson's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Axelson shall make his patient records with regard to such prescribing, administering, or personally furnishing available for review by an agent of the Board upon request.

Self and Family Prescribing

8. Dr. Axelson shall refrain from self-treating, and from treating any family member, except in the event of life-threatening emergency. For the purposes of this agreement, the term "family member" shall include Dr. Axelson's spouse, parent, child, sibling or other individual in relation to whom his personal or emotional involvement may render him unable to exercise detached professional judgment in reaching diagnostic or therapeutic decisions.

   Dr. Axelson shall not prescribe, administer, dispense, order, write orders for, or give verbal orders for any dangerous drugs or controlled substances for himself or for any family member.

Sobriety

9. Dr. Axelson shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Axelson's history of chemical dependency.

10. Dr. Axelson shall abstain completely from the use of alcohol.

Drug and Alcohol Screens/Supervising Physician

11. Dr. Axelson shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Axelson 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.

    Dr. Axelson shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

    Dr. Axelson and the Board agree that the person or entity previously approved by the Board to serve as Dr. Axelson's supervising physician pursuant to the August 2006 Step I Consent Agreement is hereby approved to continue as Dr. Axelson's designated supervising physician under this Consent Agreement,

unless within thirty days of the effective date of this Consent Agreement, Dr. Axelson submits to the Board for its prior approval the name and curriculum vitae of an alternative supervising physician to whom Dr. Axelson shall submit the required urine specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Axelson. Dr. Axelson and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

The Board expressly reserves the right to disapprove any person or entity proposed to serve as Dr. Axelson's designated supervising physician, or to withdraw approval of any person or entity previously approved to serve as Dr. Axelson's designated supervising physician, in the event that the Secretary and Supervising Member of the Board determine that any such supervising physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

Dr. Axelson shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

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

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

12. The Board retains the right to require, and Dr. Axelson agrees to submit, blood or urine specimens for analysis at Dr. Axelson's expense upon the Board's request and without prior notice. Dr. Axelson'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. Before engaging in any medical practice, Dr. Axelson shall submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a physician who practices in the same locale as Dr. Axelson and who is engaged in the same or similar practice specialty.

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

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

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

Psychiatric Treatment

14. Within thirty days of the effective date of this Consent Agreement, Dr. Axelson shall submit to the Board for its prior approval the name and qualifications of a psychiatrist of his choice, who has experience with professionals dealing with alcohol and other substances of abuse. Upon approval by the Board, Dr. Axelson shall undergo and continue psychiatric treatment, including individual psychotherapy, weekly for one year, after which the frequency of the psychiatric treatment is to be determined by his Board-approved treating psychiatrist or as otherwise directed by the Board. Dr. Axelson shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered. Dr. Axelson shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the Board on a quarterly basis, or

as otherwise directed by the Board. The psychiatric reports shall contain information describing Dr. Axelson's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Axelson's compliance with his treatment plan; Dr. Axelson's mental status; Dr. Axelson's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Axelson shall ensure that his treating psychiatrist immediately notifies the Board of his failure to comply with his psychiatric treatment plan and/or any determination that Dr. Axelson is unable to practice due to his psychiatric disorder. It is Dr. Axelson's responsibility to ensure that quarterly reports are received in the Board's offices no later than the due date for Dr. Axelson's quarterly declaration.

The psychotherapy required as part of Dr. Axelson's psychiatric treatment pursuant to this paragraph may be delegated by Dr. Axelson's treating psychiatrist to an appropriately licensed mental health professional approved in advance by the Board, so long as Dr. Axelson's treating psychiatrist oversees/supervises such psychotherapy; includes information concerning Dr. Axelson's participation and progress in psychotherapy in his or her quarterly reports; and continues to meet personally with Dr. Axelson at least once every three months. Should the psychotherapy required pursuant to this provision be delegated to a licensed mental health professional, Dr. Axelson shall ensure that psychotherapy reports are forwarded by his treating licensed mental health professional to the Board on a quarterly basis, or as otherwise directed by the Board. The psychotherapy reports shall contain information describing Dr. Axelson's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Axelson's compliance with his treatment plan; Dr. Axelson's mental status; Dr. Axelson's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Axelson shall ensure that his treating licensed mental health professional immediately notifies the Board of his failure to comply with his psychotherapy treatment plan and/or any determination that Dr. Axelson is unable to practice due to his psychiatric disorder. These psychotherapy reports shall be in addition to the reports submitted by Dr. Axelson's treating psychiatrist. It is Dr. Axelson's responsibility to ensure that all quarterly reports are received in the Board's offices no later than the due date for Dr. Axelson's quarterly declaration.

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

Rehabilitation Program

15. Dr. Axelson shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.

    Dr. Axelson shall submit acceptable documentary evidence of continuing compliance with this program which must be received in the Board's offices no later than the due date for Dr. Axelson's quarterly declarations.

Aftercare

16. Dr. Axelson shall maintain continued compliance with the terms of the advocacy contract entered into with the OPHP, or, if approved in advance by the Board, another physician health program, provided that, where terms of the advocacy contract conflict with terms of this Consent Agreement, the terms of this Consent Agreement shall control.

17. Dr. Axelson shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided that, where terms of the aftercare contract conflict with terms of this Consent Agreement, the terms of this Consent Agreement shall control.

Releases

18. Dr. Axelson shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Axelson's chemical dependency or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Axelson 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.

Required Reporting by Licensee

19. Within thirty days of the effective date of this Consent Agreement, Dr. Axelson shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief

of Staff at each hospital where he has privileges or appointments. Further, Dr. Axelson 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.

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

21. Dr. Axelson shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Axelson chemical dependency treatment or monitoring.

FAILURE TO COMPLY

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

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

DURATION/MODIFICATION OF TERMS

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

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Axelson acknowledges that he has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

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

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

This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Dr. Axelson acknowledges that his social security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

EFFECTIVE DATE

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

David B. Axelson MD
DAVID B. AXELSON, M.D.

4/3/07
DATE

DOUGLAS GRAFF
Attorney for Dr. Axelson

4/8/07
DATE

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

4-11-07
DATE

RAYMOND J. ALBERT
Supervising Member

4/11/07
DATE

Marcie Pastrick
MARCIE PASTRICK
Enforcement Attorney

04/04/07
DATE

STATE MEDICAL BOARD
OF OHIO
2006 AUG -9 P 12: 15

CONSENT AGREEMENT
BETWEEN
DAVID B. AXELSON, M.D.,
AND
THE STATE MEDICAL BOARD OF OHIO

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

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

BASIS FOR ACTION

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

A. The Board is empowered by Section 4731.22(B)(26), 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 "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice."

B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26), Ohio Revised Code, as set forth in Paragraphs E through G 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. Dr. Axelson is licensed to practice medicine and surgery in the State of Ohio, License # 35.064318.

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

E. Dr. Axelson admits that he relapsed on alcohol on or about April 14, 2006, and continued to consume alcohol until on or about June 26, 2006. Dr. Axelson further admits that he entered outpatient treatment at The Woods at Parkside [Parkside], a Board-approved

treatment provider in Columbus, Ohio, on or about July 31, 2006; that he is currently impaired in his ability to practice medicine and surgery 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; and that he self-reported his relapse to the Board on or about August 3, 2006. Dr. Axelson attests that although this represents his second relapse on alcohol, it is his first relapse after receiving inpatient treatment during or about 1993, after which he maintained uninterrupted sobriety until his aforementioned relapse on or about April 14, 2006.

F. Dr. Axelson further admits that in or about June 2006, during the time period when he had relapsed on alcohol, he had an argument with his wife that resulted in a Disorderly Conduct charge being filed against him, for which the court has granted him intervention in lieu of conviction with the charge to be dismissed upon the successful completion of treatment.

G. Dr. Axelson further admits that on or about September 3, 1992, he entered into a Consent Agreement with the Board in lieu of formal proceedings based upon his violation of Section 4731.22(B)(26), Ohio Revised Code, granting him licensure subject to certain terms, conditions, and limitations, including that he abstain completely from the use of alcohol. Dr. Axelson further admits that in or about November 1992, he relapsed on alcohol in violation of the probationary conditions of said Consent Agreement, and that he thereafter entered Perspectives, a treatment center in New Jersey, on or about December 21, 1992, and was discharged, treatment complete, on or about March 16, 1993. Dr. Axelson further states that on or about September 10, 1993, the Board entered an Order which permanently revoked his certificate, stayed such revocation, and subjected his certificate to certain probationary terms, conditions, and limitations for a period of at least five years. Dr. Axelson further states, and the Board acknowledges, that he requested and was granted release from the terms of said Order by vote of the Board, effective on or about September 23, 1998.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, Dr. Axelson knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

SUSPENSION OF CERTIFICATE

1. The certificate of Dr. Axelson to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than 180 days.

Sobriety

STATE MEDICAL BOARD
OF OHIO
2006 AUG -9 P 12: 15

2. Dr. Axelson shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Axelson's history of chemical dependency.

3. Dr. Axelson shall abstain completely from the use of alcohol.

Releases; Quarterly Declarations and Appearances

4. Dr. Axelson shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Axelson's chemical dependency or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Axelson 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. Dr. Axelson shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Consent Agreement becomes effective, provided that if the effective date is on or after the sixteenth 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. Dr. Axelson shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Consent Agreement. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

Drug & Alcohol Screens; Supervising Physician

7. Dr. Axelson shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Axelson 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.

2006 AUG -9 P 12:15
STATE MEDICAL BOARD OF OHIO

Dr. Axelson shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

Within thirty days of the effective date of this Consent Agreement, Dr. Axelson shall submit to the Board for its prior approval the name of a supervising physician to whom Dr. Axelson shall submit the required urine specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Axelson. Dr. Axelson and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Dr. Axelson shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

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

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

8. The Board retains the right to require, and Dr. Axelson agrees to submit, blood or urine specimens for analysis at Dr. Axelson's expense upon the Board's request and without prior notice.

Rehabilitation Program

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

2006 AUG -9 P 12:19
STATE MEDICAL BOARD OF OHIO

Dr. Axelson shall submit acceptable documentary evidence of continuing compliance with this program which must be received in the Board's offices no later than the due date for Dr. Axelson's quarterly declarations.

CONDITIONS FOR REINSTATEMENT

10. The Board shall not consider reinstatement of Dr. Axelson's certificate to practice medicine and surgery until all of the following conditions are met:

    a. Dr. Axelson shall submit an application for reinstatement, accompanied by appropriate fees, if any.

    b. Dr. Axelson shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:

        i. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Axelson has successfully completed any required inpatient treatment.

        ii. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.

        iii. Evidence of continuing full compliance with this Consent Agreement.

        iv. Two written reports indicating that Dr. Axelson's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Axelson. Prior to the assessments, Dr. Axelson 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 Dr. Axelson, and any conditions, restrictions, or limitations that should be imposed on Dr. Axelson's practice. The reports shall also describe the basis for the evaluator's determinations.

STATE MEDICAL BOARD OF OHIO
2006 AUG -9 P 12:19

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement.

c. Dr. Axelson shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board or, if the Board and Dr. Axelson are unable to agree on the terms of a written Consent Agreement, then Dr. Axelson 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 Dr. Axelson'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. Moreover, upon termination of the consent agreement or Board Order, Dr. Axelson shall submit to the Board for at least two years annual progress reports made under penalty of Board disciplinary action or criminal prosecution stating whether Dr. Axelson has maintained sobriety.

11. In the event that Dr. Axelson 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 Dr. Axelson's fitness to resume practice.

REQUIRED REPORTING BY LICENSEE

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

13. Within thirty days of the effective date of this Consent Agreement, Dr. Axelson shall provide a copy of this Consent Agreement by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Axelson 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, Dr. Axelson shall provide this Board

STATE MEDICAL BOARD OF OHIO
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with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

14. Dr. Axelson shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Axelson chemical dependency treatment or monitoring.

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, Dr. Axelson 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

Dr. Axelson acknowledges that he has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

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

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

This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Dr. Axelson acknowledges that his social security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

EFFECTIVE DATE

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

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STATE MEDICAL BOARD OF OHIO

David B Axelson MD
DAVID B. AXELSON, M.D.

8/9/06
DATE

1
DOUGLAS GRAFF
Attorney for Dr. Axelson

8/9/06
DATE

LANCE A. TALMAGE, M.D.
Secretary

8-9-06
DATE

RAYMOND J. ALBERT
Supervising Member

8/9/06
DATE

Marcie Pastrick
MARCIE PASTRICK
Enforcement Attorney

August 9, 2006
DATE

STATE MEDICAL BOARD
OF OHIO
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verified/es

STATE MEDICAL BOARD OF OHIO

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

September 10, 1993

David B. Axelson, M.D.
5448 Chimney Rock
Westerville, Ohio 43081

Dear Doctor Axelson:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on September 8, 1993, including a Motion approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal may be taken to the Franklin County Court of Common Pleas only.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Carla S. O'Day

Carla S. O'Day, M.D.
Secretary

CSO:em

Enclosures

CERTIFIED MAIL RECEIPT NO. P 741 123 896
RETURN RECEIPT REQUESTED

cc: Douglas E. Graff, Esq.

CERTIFIED MAIL NO. P 741 123 897
RETURN RECEIPT REQUESTED

Mailed 9/23/93

STATE MEDICAL BOARD OF OHIO
77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of R. Gregory Porter, Attorney Hearing Examiner, State Medical Board; and an excerpt of Minutes of the State Medical Board, meeting in regular session on September 8, 1993, including a Motion approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of David B. Axelson, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.

Carla S. O'Day, M.D.
Secretary

(SEAL)

9/23/93
Date

STATE MEDICAL BOARD OF OHIO
77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

DAVID B. AXELSON, M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on the 8th day of September, 1993.

Upon the Report and Recommendation of R. Gregory Porter, Hearing Examiner, Medical Board, in this matter designated pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

1. The certificate of David B. Axelson, M.D., to practice medicine and surgery in the State of Ohio shall be permanently REVOKED. Such revocation is STAYED, and Dr. Axelson's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five (5) years:

   a. Dr. Axelson shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.

   b. Dr. Axelson shall submit quarterly declarations under penalty of falsification pursuant to Section 2921.13, Ohio Revised Code, stating whether or not there has been compliance with all the provisions of probation.

c. Dr. Axelson shall appear in person for interviews before the full Board or its designated representative at three (3) months intervals, or as otherwise requested by the Board.

d. In the event that Dr. Axelson should leave Ohio for three (3) consecutive months, or reside or practice outside the state, Dr. Axelson must notify the State Medical 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, unless otherwise determined by motion of the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.

e. Dr. Axelson shall abstain completely from the personal use or possession of drugs, except as prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Dr. Axelson's history of chemical dependency.

f. Dr. Axelson shall abstain completely from the use of alcohol.

g. Dr. Axelson shall submit to random urine screenings for drugs and alcohol on a twice-weekly basis, or as otherwise directed by the Board. Dr. Axelson shall ensure that all screening reports are forwarded directly to the Board on a monthly basis. Dr. Axelson shall submit the required urine specimens to a supervising physician to be approved by the Board. 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, Dr. Axelson must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable.

h. Dr. Axelson shall continue to take disulfram 250 mg. on a daily basis or as otherwise directed by his approved supervising physician. Dr. Axelson shall include a statement in the quarterly declaration, as required by paragraph (b), above, specifically stating under penalty of falsification pursuant to Section 2921.13, Ohio Revised Code, whether Dr. Axelson is continuing his daily disulfram treatments, the amount ingested daily, and whether Dr. Axelson is in compliance with this paragraph.

i. Dr. Axelson shall submit blood or urine specimens for analysis without prior notice at such times as the Board may request.

j. Dr. Axelson shall maintain participation in an alcohol and drug rehabilitation program, such as AA, NA, or Caduceus, approved in advance by the Board specifically for Dr. Axelson, no less than three (3) times per week. At his appearances before the Board or its designated representative, Dr. Axelson shall submit acceptable documentary evidence of continuing compliance with this program.

k. Dr. Axelson shall continue therapy with his current psychiatrist or with another psychiatrist approved by the Board, at such intervals as are deemed appropriate by the treating psychiatrist but not less than once per month, and shall comply with all treatment and/or medication regimens recommended by the approved treating psychiatrist, 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 treating psychiatrist. Said reports shall indicate Dr. Axelson's progress and status, including his compliance with any recommended treatments and/or medication regimens, and shall specify any changes in recommended treatment and/or medication and the reasons for such changes. Dr. Axelson shall ensure that these reports are forwarded to the Board on a quarterly basis, or as otherwise directed by the Board. In its discretion, the Board may request additional information from the treating psychiatrist.

David B. Axelson, M.D.

1. Dr. Axelson shall continue to participate in the Riverside Methodist Hospitals' Continuing Program for recovery/aftercare unless otherwise directed in writing by the Board.

m. After graduation from his residency program, Dr. Axelson shall notify the Board in writing of his plan of practice within thirty (30) days, or as otherwise approved, from his date of employment or commencement of practice, and shall submit to any monitoring requirements the Board deems fit to impose.

n. Dr. Axelson shall provide all employers and the chief of staff at each hospital where he has, applies for, or obtains privileges with a copy of this Order.

2. If Dr. Axelson violates probation in any respect, the Board, after giving Dr. Axelson notice and the opportunity to be heard, may set aside the stay order and impose the revocation of Dr. Axelson's certificate.

3. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Axelson's certificate will be fully restored.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board of Ohio.

Carla S. O'Day, M.D.
Secretary

(SEAL)

9/23/93
Date

STATE MEDICAL BOARD
OF OHIO

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REPORT AND RECOMMENDATION
IN THE MATTER OF DAVID B. AXELSON, M.D.

The Matter of David B. Axelson, M.D., came on for hearing before me, R. Gregory Porter, Esq., Hearing Examiner for the State Medical Board of Ohio, on July 6, 1993.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Basis for Hearing

A. By letter of March 10, 1993 (State's Exhibit #1), the State Medical Board notified David B. Axelson, M.D., that it proposed to take disciplinary action against his cetificate to practice medicine and surgery in Ohio. On or about September 3, 1992, Dr. Axelson entered into a Consent Agreement with the State Medical Board of Ohio. Paragraph 6 of the Consent Agreement stated: "Dr. Axelson shall abstain completely from the use of alcohol." The Board alleged that Dr. Axelson violated his Consent Agreement by ingesting alcohol in December of 1992. Dr. Axelson's acts, conduct, and/or omissions were alleged to constitute "violation of the conditions of limitation placed by the Board upon a certificate to practice or violation of the conditions of limitation upon which a limited or temporary registration or certificate to practice is issued," as that clause is used in Section 4731.22(B)(15), Ohio Revised Code. Dr. Axelson was advised of his right to request a hearing in this Matter.

B. By document filed with the State Medical Board on April 6, 1993 (State's Exhibit #2), Douglas E. Graff, Esq., requested a hearing on behalf of Dr. Axelson.

II. Appearances

A. On behalf of the State of Ohio: Lee I. Fisher, Attorney General, by Susan C. Walker, Assistant Attorney General.

B. On behalf of the Respondent: Douglas E. Graff, Esq.

III. Testimony Heard

A. Presented by the State

No witnesses were presented by the State.

STATE MEDICAL BOARD
OF OHIO

93 AUG 11 AM 11:34

B. Presented by the Respondent

1. Richard O. Pelham, M.D.

2. David B. Axelson, M.D.

IV. Exhibits Examined

In addition to State's Exhibits #1 and #2, noted above, the following exhibits were identified and admitted into evidence in this Matter:

A. Presented by the State

1. State's Exhibit #3: April 8, 1993 letter to Douglas E. Graff, Esq., from the State Medical Board, advising that a hearing initially set for April 20, 1993 was postponed pursuant to Section 119.09, Ohio Revised Code.

2. State's Exhibit #4: April 8, 1993 letter to Douglas E. Graff, Esq., from the State Medical Board, scheduling the hearing for June 24, 1993.

3. State's Exhibit #5: June 7, 1993 motion by the State for continuance of the scheduled hearing date.

4. State's Exhibit #6: June 9, 1993 Entry denying the State's motion for continuance, and postponing the June 24, 1993 hearing for one hour.

5. State's Exhibit #7: June 11, 1993 motion by the State for reconsideration of the earlier motion to continue the June 24, 1993 hearing.

6. State's Exhibit #8: June 15, 1993 Entry granting the State's motion for reconsideration; vacating the June 9, 1993 Entry; granting the State's June 7, 1993 motion for continuance; and rescheduling the hearing to 9:00 A.M., July 6, 1993.

7. State's Exhibit #9: Copy of September 3, 1992 Consent Agreement between David B. Axelson, M.D., and the State Medical Board of Ohio.

* 8. State's Exhibit #10: December 22, 1992 letter to the State Medical Board from Richard O. Pelham, M.D., Medical Director, Ohio Physicians Effectiveness Program, regarding Dr. Axelson's recovery.

STATE MEDICAL BOARD
OF OHIO

93 AUG 11 AM 11:34

9. State's Exhibit #11: December 9, 1992 urine screen report for David Axelson, indicating positive for alcohol.

* 10. State's Exhibit #12: January 8, 1993 letter to the State Medical Board from Michelle C. Jackson, Administrative Coordinator, Perspectives Health Program, regarding Dr. Axelson's assessment and treatment for chemical dependency, enclosing a December 21, 1992 admission assessment from Peninsula Psychiatric Hospital.

* 11. State's Exhibit #13: March 10, 1993 letter to Dr. Pelham from William J. Farley, M.D., Medical Director, Perspectives Health Program, regarding Dr. Axelson's progress in the treatment program, enclosing the results of a four-day evaluation.

12. State's Exhibit #14: Dr. Axelsons's March 24, 1993 authorization for Perspectives to release information regarding his treatment to the State Medical Board.

* 13. State's Exhibit #15: Dr. Axelson's April 5, 1993 advocacy contract with Ohio Physicians Effectiveness Program.

B. Presented by the Respondent

1. Respondent's Exhibit A: Curriculum vitae of Richard O. Pelham, M.D., dated June 4, 1992.

* 2. Respondent's Exhibit B: AA and Caduceus meeting attendance logs for Dr. Axelson for the months August, 1992 through December, 1992, and March, 1993 through May, 1993.

3. Respondent's Exhibit C: June 1, 1993 Ohio Physicians Effectiveness Program monitoring report, prepared by Jerome Driesen, M.D., regarding Dr. Axelson's recovery progress.

* NOTE: THOSE EXHIBITS MARKED WITH AN ASTERISK (*) HAVE BEEN SEALED TO PROTECT CONFIDENTIALITY.

V. Other Matters

The hearing record was held open to July 13, 1993, in order to allow Respondent additional time to obtain and submit exhibits.

STATE MEDICAL BOARD
OF OHIO

93 AUG 11 AM 11: 34

VI. Post-hearing Admissions to the Record

The following exhibits, having been submitted by the Respondent prior to the close of the hearing record, and without objection from the State, are hereby admitted to the record:

1. Respondent's Exhibit D: July 7, 1993 letter to Douglas E. Graff, Esq., from Ronald A. Weller, M.D., Director of Education and Training, Ohio State University Department of Psychiatry, regarding Dr. Axelson's residency.

* 2. Respondent's Exhibit E: AA attendance logs for Dr. Axelson for the months of June, 1993 and May, 1993.

* NOTE: THOSE EXHIBITS MARKED WITH AN ASTERISK (*) HAVE BEEN SEALED TO PROTECT CONFIDENTIALITY.

FINDINGS OF FACT

1. On or about September 3, 1992, David B. Axelson, M.D., entered into a Consent Agreement with the State Medical Board of Ohio, based upon certain stipulations, admissions, and understandings. Among these, Dr. Axelson admitted that on December 29, 1990 he was arrested for OMVI and was subsequently found guilty; that he was placed on probationary status in his psychiatry residency program on August 12, 1991, as a result of an incident of drinking alcohol during duty hours; that he is a recovering alcoholic and entered treatment at Riverside Methodist Hospitals Alcohol and Drug Dependency Services in August of 1991, where he was evaluated and referred to the Intensive Outpatient Program under the direction of Tom H. Pepper, M.D.

   By the terms of this Consent Agreement, the Board agreed to grant a license to practice medicine and surgery in Ohio to Dr. Axelson, subject to various probationary terms, conditions, and limitations which are still in effect. Paragraph 6 of these probationary conditions states: "Dr. Axelson shall abstain completely from the use of alcohol."

   These facts are established by State's Exhibit #9.

2. Dr. Axelson admittedly violated paragraph 6 of his Consent Agreement by relapsing to drinking alcohol in November, 1992. Dr. Axelson continued to consume alcohol upon occasion through December 15, 1992. A positive urine screen report confirmed his alcohol use.

STATE MEDICAL BOARD
OF OHIO

93 AUG 11 AM 11: 34

These facts are established by State's Exhibit #11 and the testimony of Dr. Axelson (Tr. at 45-47).

3. Dr. Axelson is a PGY-IV resident in psychiatry at Ohio State University Hospital. His anticipated graduation date is late November, 1993.

These facts are established by Respondent's Exhibit D, and the testimony of Dr. Axelson (Tr. at 36-37).

4. Dr. Axelson testified that his abuse of alcohol began when he was about ten years old, intensified during high school and college (when he also used marijuanna and experimented with other drugs), and continued throughout medical school and residency. It culminated with an incident of intoxication during his duty hours at OSU Hospital, which led to an intervention by persons from his department. He was placed on probation in his residency. He enrolled in the outpatient chemical dependency treatment program at Riverside Methodist Hospitals. The program lasted about three months, and consisted of three sessions per week in the evening, each lasting three hours. In February, 1992, he entered into a contract with the Ohio Physicians Effectiveness Program (OPEP).

During the summer of 1992, Dr. Axelson was troubled by severe depression and low self-esteem which he said resulted from personal problems, such as the break-up of a long-term romantic relationship. He worried about his peformance in his residency program; because he was already on probation, he was afraid of making a mistake or doing something inappropriate. Consequently, he took a leave of absence starting in November, 1992.

During this leave of absence, Dr. Axelson began feeling less depressed. He wanted to go out and socialize. He believed at that time he was capable of social drinking in a controlled fashion. He then stopped taking Antabuse and resumed drinking, although he said he was not drinking daily. In early December, a urine screen sample tested positive for alcohol. On December 16, 1992, an intervention coordinated by Dr. Pelham, took place on Dr. Axelson's behalf. Shortly thereafter, Dr. Axelson entered an intensive, inpatient treatment program at Perspectives, located in Hampton, Virginia.

These facts are established by State's Exhibits #10, #11, #12, and #13, the testimony of Dr. Axelson (Tr. at 37-48), and the testimony of Dr. Pelham (Tr. at 17).

5. Dr. Axelson stated that he has had problems with depression in the past. The 1992 episode was his third, and most severe. He is consulting a psychiatrist, and is currently taking antidepressant medication.

STATE MEDICAL BOARD
OF OHIO

93 AUG 11 AM 11: 36

These facts are established by State's Exhibits #12 and #13, and the testimony of Dr. Axelson (Tr. at 44-45, 58-59).

6. Richard O. Pelham, M.D., the Medical Director of OPEP, testified on behalf of Dr. Axelson. Dr. Pelham has been involved in Dr. Axelson's case since Dr. Axelson was referred to OPEP by Riverside in February, 1992. Dr. Pelham stated that Dr. Axelson willingly entered the program, and signed a contract that was substantially similar to the more recent April 5, 1993 contract (State's Exhibit #15), without the Antabuse and aftercare counseling requirements. Dr. Axelson's monitoring physician was, and remains, Dr. Jerome Driesen.

In Dr. Pelham's opinion, Dr. Axelson's earlier treatment program did not give Dr. Axelson the necessary tools for recovery; he was still having trouble accepting that he was powerless over alcohol. Although Dr. Axelson complied with the OPEP contract for a while, he lacked enthusiasm for the program. After Dr. Axelson took leave of absence from his residency, Drs. Pelham and Driesen, along with Dr. Axelson's AA sponsor, decided that an intervention was necessary. Dr. Pelham said the intervention was planned before the positive urine screen was received, and would have taken place even if Dr. Axelson hadn't actually resumed drinking. Dr. Axelson entered Perspectives on December 21, 1992. An initial assessment indicated the need for extended treatment. Dr. Axelson completed the program at Perspectives, and was released on March 16, 1993.

Dr. Pelham testified that Perspectives is designed to meet the needs of health professionals, and that Dr. Axelson received much more thorough and intensive treatment than he had received previously. Following his release, Dr. Axelson entered into the new advocacy contract with OPEP (State's Exhibit #15). Dr. Pelham reported a marked change in Dr. Axelson's attitude toward his recovery since his return. Rather than being merely compliant, he is enthusiastic about his recovery, and now appears to possess the skills necessary to maintain his recovery. He is currently in full compliance with his contract.

Dr. Pelham indicated that Dr. Axelson's November, 1992 relapse may have been a therapeutic slip--one of brief duration that can rejuvenate a stalled recovery program. It can make the person realize that they are powerless over alcohol, and thus intensify the recovery efforts.

These facts are established by State's Exhibits #10, #12, #13, and #15, by Respondent's Exhibit C, and by the testimony of Dr. Pelham (Tr. at 15-34).

STATE MEDICAL BOARD
OF OHIO

93 AUG 11 AM 11:31

7. Dr. Axelson agreed that the program at Perspectives was more intensive than his previous treatment program. He stated that he now feels better about his recovery, and about himself. He believed that he has a good support network in place. He married shortly after his release from treatment, and his wife is aware of his problem, and supportive. Dr. Axelson sees his OPEP monitor weekly, takes Antabuse daily, is involved with counseling at the Riverside Aftercare Program, submits random urines weekly, and attends AA or Caduceus meetings four or five times per week. He actively participates in these meetings. He believes that he can deal with future urges to drink alcohol in an appropriate manner, utilizing the support network and the skills that he has developed. He is considering pursuing a fellowship in addiction medicine.

   These facts are established by the testimony of Dr. Axelson (Tr. at 49-58).

CONCLUSIONS

The acts, conduct, and/or omissions of David B. Axelson, M.D., as set forth in Finding of Fact #2, above, constitute "violation of the conditions of limitation placed by the Board upon a certificate to practice or violation of the conditions of limitation upon which a limited or temporary registration or certificate to practice is issued," as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

* * * * *

Dr. Axelson is an impaired physician with a history of alcoholism, exacerbated by recurrent bouts of depression. The Board was aware of his difficulties with alcohol when his license was issued in September, 1992, and granted him the privilege to practice in this State under conditions and limitations that were intended to protect both Dr. Axelson and the public. Violations of these conditions cannot be overlooked. Dr. Axelson's consumption of alcohol in late 1992 violated both the terms of his Consent Agreement and the trust of the Board.

In mitigation, the Board may wish to consider that, after his relapse, Dr. Axelson voluntarily entered into treatment that was considerably more intensive than his previous program. He is now making a serious effort to maintain his recovery. Further, Dr. Axelson's current residency program would seem to provide sufficient structure and supervision to assure the safety of his continued practice. This may justify the Board giving him another chance, with the understanding that no future violations will be tolerated.

STATE MEDICAL BOARD
OF OHIO

93 AUG 11 AM 11:34

PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of David B. Axelson, M.D., to practice medicine and surgery in the State of Ohio shall be permanently REVOKED. Such revocation is STAYED, and Dr. Axelson's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five (5) years:

   a. Dr. Axelson shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.

   b. Dr. Axelson shall submit quarterly declarations under penalty of falsification pursuant to Section 2921.13, Ohio Revised Code, stating whether or not there has been compliance with all the provisions of probation.

   c. Dr. Axelson shall appear in person for interviews before the full Board or its designated representative at three (3) months intervals, or as otherwise requested by the Board.

   d. In the event that Dr. Axelson should leave Ohio for three (3) consecutive months, or reside or practice outside the state, Dr. Axelson must notify the State Medical 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, unless otherwise determined by motion of the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.

   e. Dr. Axelson shall abstain completely from the personal use or possession of drugs, except as prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Dr. Axelson's history of chemical dependency.

   f. Dr. Axelson shall abstain completely from the use of alcohol.

   g. Dr. Axelson shall submit to random urine screenings for drugs and alcohol on a twice-weekly basis, or as otherwise directed by the Board. Dr. Axelson shall ensure that all screening reports are forwarded directly to the Board on a monthly basis. Dr. Axelson shall

STATE MEDICAL BOARD
OF OHIO

93 AUG 11 AM 11:34

submit the required urine specimens to a supervising physician to be approved by the Board. 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, Dr. Axelson must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable.

h. Dr. Axelson shall continue to take disulfram 250 mg. on a daily basis or as otherwise directed by his approved supervising physician. Dr. Axelson shall include a statement in the quarterly declaration, as required by paragraph (b), above, specifically stating under penalty of falsification pursuant to Section 2921.13, Ohio Revised Code, whether Dr. Axelson is continuing his daily disulfram treatments, the amount ingested daily, and whether Dr. Axelson is in compliance with this paragraph.

i. Dr. Axelson shall submit blood or urine specimens for analysis without prior notice at such times as the Board may request.

j. Dr. Axelson shall maintain participation in an alcohol and drug rehabilitation program, such as AA, NA, or Caduceus, approved in advance by the Board specifically for Dr. Axelson, no less than three (3) times per week. At his appearances before the Board or its designated representative, Dr. Axelson shall submit acceptable documentary evidence of continuing compliance with this program.

k. Dr. Axelson shall continue therapy with his current psychiatrist or with another psychiatrist approved by the Board, at such intervals as are deemed appropriate by the treating psychiatrist but not less than once per month, and shall comply with all treatment and/or medication regimens recommended by the approved treating psychiatrist, 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 treating psychiatrist. Said reports shall indicate Dr. Axelson's progress and status, including his compliance with any recommended treatments and/or

STATE MEDICAL BOARD
OF OHIO

93 AUG 11 AM 11:35

medication regimens, and shall specify any changes in recommended treatment and/or medication and the reasons for such changes. Dr. Axelson shall ensure that these reports are forwarded to the Board on a quarterly basis, or as otherwise directed by the Board. In its discretion, the Board may request additional information from the treating psychiatrist.

l. Dr. Axelson shall continue to participate in the Riverside Methodist Hospitals' Continuing Program for recovery/aftercare unless otherwise directed in writing by the Board.

m. After graduation from his residency program, Dr. Axelson shall notify the Board in writing of his plan of practice within thirty (30) days, or as otherwise approved, from his date of employment or commencement of practice, and shall submit to any monitoring requirements the Board deems fit to impose.

n. Dr. Axelson shall provide all employers and the chief of staff at each hospital where he has, applies for, or obtains privileges with a copy of this Order.

2. If Dr. Axelson violates probation in any respect, the Board, after giving Dr. Axelson notice and the opportunity to be heard, may set aside the stay order and impose the revocation of Dr. Axelson's certificate.

3. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Axelson's certificate will be fully restored.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board of Ohio.

R. Gregory Porter
Attorney Hearing Examiner

STATE MEDICAL BOARD OF OHIO
77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

EXCERPT FROM THE MINUTES OF SEPTEMBER 8, 1993

REPORTS AND RECOMMENDATIONS

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Dr. Agresta asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: David B. Axelson, M.D.; William R. Dorsey, D.O.; Mitch S. Wagner, M.D.; and Earl T. Hoffman, M.D. A roll call was taken:

ROLL CALL:	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Heidt	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Agresta	- aye

Dr. Agresta asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Heidt	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Agresta	- aye

.....

REPORT AND RECOMMENDATION IN THE MATTER OF DAVID B. AXELSON, M.D.

.....

DR. GARG TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF DAVID B. AXELSON, M.D. DR. GRETTER SECONDED THE MOTION.

STATE MEDICAL BOARD OF OHIO
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.....

A roll call vote was taken on Dr. Garg's motion:

ROLL CALL VOTE:	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Heidt	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

STATE MEDICAL BOARD OF OHIO

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

March 10, 1993

David B. Axelson, M.D.
5448 Chimney Rock
Westerville, OH 43081

Dear Doctor Axelson:

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 September 3, 1992, you entered into a Consent Agreement with the State Medical Board of Ohio, a copy of which is attached hereto and fully incorporated herein.

It states in paragraph (6) of the above-mentioned Consent Agreement that "(you) shall abstain completely from the use of alcohol."

Nevertheless, in December of 1992 you ingested alcohol in violation of the terms of your Consent Agreement with the Board.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively constitute "violations of the conditions of limitations placed by the board upon a certificate to practice or violation of the conditions of limitation upon which a limited or temporary registration or certificate to practice is issued," as that clause is used in Section 4731.22(B)(15) of the 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.

Mailed 3/11/93

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.

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,

Carla S. O'Day, M.D.
Secretary

CSO:jmb

Enclosures:

CERTIFIED MAIL #P 741 125 324
RETURN RECEIPT REQUESTED

cc: Douglas L. Graff, Esq.

CONSENT AGREEMENT
BETWEEN
DAVID B. AXELSON, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

THIS CONSENT AGREEMENT is entered into by and between DAVID B. AXELSON, M.D. and THE STATE MEDICAL BOARD OF OHIO, a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

DAVID B. AXELSON, M.D. enters into this 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)(26), 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 impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.

B. THE STATE MEDICAL BOARD OF OHIO enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26) 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. DOCTOR AXELSON has submitted an application for licensure to practice medicine and surgery in the State of Ohio.

D. DOCTOR AXELSON ADMITS that on December 29, 1990 he was arrested for O.M.V.I. and subsequently found guilty.

E. DOCTOR AXELSON ADMITS that he was placed on probationary status in his psychiatry residency program on August 12, 1991, as a result of an incident of drinking alcohol during duty hours.

F. DOCTOR AXELSON ADMITS that he is a recovering alcoholic and entered treatment at Riverside Methodist Hospitals Alcohol and Drug Dependency Services in August of 1991, where he was evaluated and referred to the Intensive Outpatient Program under the direction of Tom H. Pepper, M.D.

WHEREFORE, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, DAVID B. AXELSON, M.D. knowingly and voluntarily agrees with THE STATE MEDICAL BOARD OF OHIO, (hereinafter BOARD) that, upon approval of the Board, DOCTOR AXELSON shall be granted a license to practice medicine and surgery in the State of Ohio subject to the following probationary terms, conditions and limitations:

1. DOCTOR AXELSON shall obey all federal, state and local laws, and all rules governing the practice of medicine in Ohio;

2. DOCTOR AXELSON shall submit quarterly declarations under penalty of perjury stating whether there has been compliance with all the conditions of this Consent Agreement;

3. DOCTOR AXELSON shall appear in person for interviews before the full BOARD or its designated representative at three month intervals, or as otherwise directed by the BOARD;

4. In the even that DOCTOR AXELSON should leave Ohio for three continuous months, or reside or practice outside the State DOCTOR AXELSON 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.

5. DOCTOR AXELSON 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 DOCTOR AXELSON'S history of chemical dependency;

6. DOCTOR AXELSON shall abstain completely from the use of alcohol;

7. DOCTOR AXELSON shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the BOARD. DOCTOR AXELSON is to ensure that all screening reports are forwarded directly to the BOARD on a monthly basis;

   DOCTOR AXELSON shall submit the required urine specimens to a supervising physician to be approved by the BOARD. 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, DOCTOR AXELSON must immediately notify the BOARD in writing, and make arrangements acceptable to the BOARD for another supervising physician as soon as practicable;

8. DOCTOR AXELSON shall continue to take disulfram 250 mg. on a daily basis or as otherwise directed by his supervising physician. DOCTOR AXELSON shall include a statement in the quarterly declaration, as required by paragraph 2 above, specifically stating under penalty of perjury whether DOCTOR AXELSON is continuing his daily disulfram treatments, the amount ingested daily and, whether DOCTOR AXELSON is in compliance with this paragraph;

9. The BOARD retains the right to require, and DOCTOR AXELSON agrees to submit, blood or urine specimens for analysis upon request and without prior notice;

10. Within 30 days of the effective date of this Consent Agreement, DOCTOR AXELSON shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or Caduceus, acceptable to the BOARD no less than three (3) times per week. At his appearances before the BOARD or its designated representative, DOCTOR AXELSON shall submit documentary evidence of continuing compliance with this program;

11. DOCTOR AXELSON shall provide all employers and the Chief of Staff at each hospital where he has, applies for or obtains privileges with a copy of this Consent Agreement;

12. DOCTOR AXELSON shall continue to participate in the Riverside Methodist Hospitals Continuing Program for recovery/aftercare for the duration of the Consent Agreement.

The above described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties. However, this Agreement shall remain in force for a minimum of two (2) years prior to any request for termination of said Agreement.

If, in the discretion of the Secretary of THE STATE MEDICAL BOARD OF OHIO, DOCTOR AXELSON appears to have violated or breached any term or condition of this Agreement, THE STATE MEDICAL BOARD OF OHIO reserves the right to institute formal disciplinary proceedings for any and all possible violations or breached, including but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Agreement.

DOCTOR AXELSON acknowledges that he has had an opportunity to ask questions concerning the terms of this 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 AXELSON 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, and shall become effective upon the last date of signature below.

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

David B. Axelson, MD
DAVID B. AXELSON, M.D.

9/2/92
DATE

DOUGLAS E. GRAFF, J.D.
Attorney for Dr. Axelson

8/31/92
DATE

Carla A. O'Day, MD
CARLA S. O'DAY, M.D.
Secretary

8/31/92
DATE

RONALD J. KAPLANSKY, D.P.M.
Supervising Member

9/2/92
DATE

ODELLA LAMPKIN, ESQ.
Assistant Attorney General

9/3/92
DATE