OHIO STATE MEDICAL BOARD
JAN 1 1 2005

STEP II
CONSENT AGREEMENT
BETWEEN
ROBERT EDWARD MARSICO, JR., M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

This Consent Agreement is entered into by and between Robert Edward Marsico, Jr., M.D., and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

Dr. Marsico 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), 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 violations of Section 4731.22(B)(26), Ohio Revised Code, "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," and/or Section 4731.22(B)(5), Ohio Revised Code, "[m]aking a false, fraudulent, deceptive, or misleading statement" in securing or attempting to secure any certificate to practice issued by the Board. The Board is further empowered by Section 4731.22(A), Ohio Revised Code, to revoke or refuse to grant a certificate to a person found by the Board to have committed "fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board."

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 Paragraph E of the October 15, 2004, Step I Consent Agreement [October 2004 Step I Consent Agreement] between Dr. Marsico and the Board, a copy of which is attached hereto and incorporated herein, and the violation of Sections 4731.22(A) and 4731.22(B)(5), Ohio Revised Code, as set forth in Paragraph F of the October 2004 Step I Consent Agreement, and expressly reserves the right to institute formal

proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement.

C. Dr. Marsico is applying for reinstatement of his license to practice medicine and surgery in the State of Ohio, License # 35-064913, which was suspended pursuant to the terms of the aforementioned October 2004 Step I Consent Agreement.

D. Dr. Marsico states that he is not licensed to practice medicine and surgery in any other State.

E. Dr. Marsico admits that after being admitted on September 20, 2004, to the Cleveland Clinic Foundation [Cleveland Clinic], a Board approved treatment provider in Cleveland, Ohio, he completed twenty-eight days of residential treatment for cocaine dependence and was discharged from the Cleveland Clinic treatment complete, on October 18, 2004.

Dr. Marsico further admits that in addition to being diagnosed with cocaine dependence, the staff of the Cleveland Clinic diagnosed him with cocaine-induced psychosis that resolved, and depression. Dr. Marsico further admits that following a psychiatric evaluation on October 27, 2004, Victoria L. Sanelli, M.D., of the Center for Akron Psychiatry, Inc., diagnosed him with Major Depressive Disorder – moderate and recurrent, and advised him to continue taking prescribed medication.

F. Dr. Marsico states, and the Board acknowledges receipt of information to support, that he has remained compliant with the terms of the aftercare contract into which he entered with his treatment provider, the Cleveland Clinic, in October 2004. Dr. Marsico further states that such aftercare contract remains in effect to date.

G. Dr. Marsico further states, and the Board acknowledges, that Christopher Adelman, M.D., of Rosary Hall at St. Vincent Charity Hospital, a Board-approved treatment provider, David W. Streem, M.D., of the Cleveland Clinic, a Board-approved treatment provider, and Victoria L. Sanelli, M.D., of the Center for Akron Psychiatry, Inc., have provided written reports indicating that Dr. Marsico'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 conditions are in place.

H. Accordingly, Dr. Marsico states, and the Board acknowledges receipt of information to support, that Dr. Marsico has fulfilled the conditions for reinstatement of his license to practice medicine and surgery in the State of Ohio, as established in the above-referenced October 2004 Step I Consent Agreement.

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. Marsico to practice medicine and surgery in the State of Ohio shall be reinstated, and Dr. Marsico knowingly and voluntarily agrees with the Board to the following PROBATIONARY terms, conditions and limitations:

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

2. Dr. Marsico 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 October 2004 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. Marsico 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 October 2004 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. Marsico 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. Marsico 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. Marsico 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. Marsico's

personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Marsico shall make his patient records with regard to such prescribing available for review by an agent of the Board upon request.

7. Dr. Marsico shall not, without prior Board approval, administer, personally furnish, or possess (except as allowed under Paragraph 8 below) any controlled substances as defined by state or federal law. In the event that the Board agrees at a future date to modify this Consent Agreement to allow Dr. Marsico to administer or personally furnish controlled substances, Dr. Marsico 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. Marsico's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Marsico 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.

Sobriety

8. Dr. Marsico 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. Marsico's history of chemical dependency.

9. Dr. Marsico shall abstain completely from the use of alcohol.

Drug and Alcohol Screens/Supervising Physician

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

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

Monitoring Physician

12. Before engaging in any medical practice, Dr. Marsico 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. Marsico and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Marsico and his medical practice, and shall review Dr. Marsico'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. Marsico and his medical practice, and on the review of Dr. Marsico's patient charts. Dr. Marsico 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. Marsico's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Marsico must immediately so notify the Board in writing. In addition, Dr. Marsico 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. Marsico 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.

Rehabilitation Program

13. Within thirty days of the effective date of this Consent Agreement, Dr. Marsico 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.

    Dr. Marsico 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. Marsico's quarterly declarations.

Aftercare

14. Dr. Marsico shall contact an appropriate impaired physicians committee, approved by the Board, to arrange for assistance in recovery or aftercare.

15. Dr. Marsico 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.

Psychiatric Treatment

16. Within thirty days of the effective date of this Consent Agreement, Dr. Marsico shall submit to the Board for its prior approval the name and qualifications of a psychiatrist of his choice. Upon approval by the Board, Dr. Marsico shall undergo and continue psychiatric treatment weekly or as otherwise directed by the Board. Dr. Marsico shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered for his psychiatric disorder. Dr. Marsico 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. Marsico's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Marsico's compliance with his treatment plan; Dr. Marsico's mental status; Dr. Marsico's

progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Marsico 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. Marsico is unable to practice due to his psychiatric disorder. It is Dr. Marsico's responsibility to ensure that quarterly reports are received in the Board's offices no later than the due date for Dr. Marsico's quarterly declaration.

In the event that the designated treating psychiatrist becomes unable or unwilling to serve in this capacity, Dr. Marsico must immediately so notify the Board in writing. In addition, Dr. Marsico 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. Marsico 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.

Releases

17. Dr. Marsico 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

18. Within thirty days of the effective date of this Consent Agreement, Dr. Marsico 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. Marsico 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.

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

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

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Marsico 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. Marsico has violated any term, condition or limitation of this Consent Agreement, Dr. Marsico 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. Marsico shall not request termination of this Consent Agreement for a minimum of five years. In addition, Dr. Marsico 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. Marsico 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. Marsico 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. Marsico 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.

ROBERT EDWARD MARSICO, JR., M.D.

1/7/2005
DATE

LANCE A. TALMAGE, M.D.
Secretary

1-12-05
DATE

PAUL J. COVAL
Attorney for Dr. Marsico

1-11-05
DATE

RAYMOND J. ALBERT
Supervising Member

1/12/05
DATE

SALLIE J. DEBOLT
Enforcement Attorney

Jan. 11, 2005
DATE

Rev. 12/2/03

Rev. 2/3/04

OHIO STATE MEDICAL BOARD
OCT 1 2 2004

STEP I
CONSENT AGREEMENT
BETWEEN
ROBERT E. MARSICO, JR., M.D.,
AND
THE STATE MEDICAL BOARD OF OHIO

This Consent Agreement is entered into by and between Robert E. Marsico, Jr., M.D., and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

Dr. Marsico 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), 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 violations of Section 4731.22(B)(26), Ohio Revised Code, "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," and/or Section 4731.22(B)(5), Ohio Revised Code, "[m]aking a false, fraudulent, deceptive, or misleading statement" in securing or attempting to secure any certificate to practice issued by the Board. The Board is further empowered by Section 4731.22(A), Ohio Revised Code, to revoke or refuse to grant a certificate to a person found by the Board to have committed "fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board."

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 Paragraph (E) below, and the violation of Sections 4731.22(A) and 4731.22(B)(5), Ohio Revised Code, as set forth in Paragraph (F) 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.

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C. Dr. Marsico is licensed to practice medicine and surgery in the State of Ohio, License # 35-064913.

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

E. Dr. Marsico admits that on September 20, 2004, he entered treatment for cocaine dependence at Cleveland Clinic Foundation [Cleveland Clinic], a Board-approved treatment facility. Further, Dr. Marsico admits that approximately two years ago he started using cocaine on weekends when he was not on call, that for the last year or so he has used cocaine two or three times a month on weekends when not on call or on a week night when he would not be in the office the next day, and that during the last year he spent approximately $500 a month for cocaine. Further, Dr. Marsico admits that he last used cocaine approximately one week before he entered treatment at Cleveland Clinic. Further Dr. Marsico states that he has not used any other illegal drugs, abused prescription medications, or used cocaine when he would be treating patients. Further, Dr. Marsico admits that the staff of Cleveland Clinic has diagnosed him as having Cocaine Dependence and a psychiatric disorder, which may or may not be associated with cocaine use. Dr. Marsico further states that he is prescribed medication for the psychiatric disorder.

Further, Dr. Marsico admits, and the Board acknowledges, that he reported his cocaine addiction and admission into the Cleveland Clinic in response to questions posed by representatives of the Board.

F. Further, Dr. Marsico admits that on or about April 6, 1998, he submitted to the Board a supplement to his 1998 renewal application to maintain his license to practice medicine and surgery, upon which he signed a statement indicating that he certified "that the information provided is true and correct." Further, Dr. Marsico admits that he answered "no" to question number (1), which asks whether the applicant had "been found guilty of, or pled guilty or no contest to a felony or misdemeanor" since the time of last application. Further, Dr. Marsico admits that on November 26, 1996, in Cuyahoga Falls Municipal Court, Cuyahoga Falls, Ohio, he pled guilty to one count of Criminal Damaging, a misdemeanor in violation of Section 541.03 of the Codified Ordinances of the City of Twinsburg, Ohio, and to one count of Assault, a misdemeanor in violation of Section 2903.13, Ohio Revised Code.

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

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SUSPENSION OF CERTIFICATE

1. The certificate of Dr. Marsico to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time.

Sobriety

2. Dr. Marsico 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. Marsico's history of chemical dependency.

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

Releases; Quarterly Declarations and Appearances

4. Dr. Marsico 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. Marsico's chemical dependency and/or psychiatric condition and/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. Marsico 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. Marsico 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. Marsico 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

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

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Rehabilitation Program

8. Within thirty days of the effective date of this Consent Agreement, Dr. Marsico 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.

   Dr. Marsico 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. Marsico's quarterly declarations.

CONDITIONS FOR REINSTATEMENT

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

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

   b. Dr. Marsico 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. Marsico 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. Three written reports indicating that Dr. Marsico'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 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. Marsico. Prior to the assessments,

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Dr. Marsico 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. Marsico, and any conditions, restrictions, or limitations that should be imposed on Dr. Marsico'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 Dr. Marsico. Prior to the examination, Dr. Marsico 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 Dr. Marsico'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 months immediately preceding any application for reinstatement.

c. Dr. Marsico shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board or, if the Board and Dr. Marsico are unable to agree on the terms of a written Consent Agreement, then Dr. Marsico 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. Marsico'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. Marsico 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. Marsico has maintained sobriety.

10. In the event that Dr. Marsico 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. Marsico's fitness to resume practice.

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REQUIRED REPORTING BY LICENSEE

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

12. Within thirty days of the effective date of this Consent Agreement, Dr. Marsico 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. Marsico 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, Dr. Marsico 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. Marsico 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. Marsico hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

OHIO STATE MEDICAL BOARD
OCT 12 2004

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. Marsico 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.

MD

ROBERT E. MARSICO, JR., M.D.

10/11/2004

DATE

PAUL J. COVAL
Attorney for Dr. Marsico

10-12-04

DATE

MD

LANCE A. TALMAGE, M.D.
Secretary

10-13-04

DATE

RAYMOND J. ALBERT
Supervising Member

10/15/04

DATE

Sallie J. Debolt

SALLIE J. DEBOLT
Enforcement Attorney

October 12, 2004

DATE