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

October 14, 1998

Felix A. Wickremasinghe, M.D.
1560 Professional Drive
Chillicothe, OH 45601

Dear Doctor Wickremasinghe:

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 draft Minutes of the State Medical Board, meeting in regular session on October 14, 1998, including motions 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, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. Z 233 840 086
RETURN RECEIPT REQUESTED

Mailed 10/16/98

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 14, 1998, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Felix A. Wickremasinghe, 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.

Anand G. Garg, M.D.
Secretary

(SEAL)

October 14, 1998
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

FELIX A. WICKREMASINGHE, M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on October 14, 1998.

Upon the Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner, designated in this Matter 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 the certificate of Felix A. Wickremasinghe, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

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

Anand G. Garg, M.D.
Secretary

(SEAL)

October 14, 1998
Date

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OF OHIO

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REPORT AND RECOMMENDATION
IN THE MATTER OF FELIX A. WICKREMASINGHE, M.D.

The Matter of Felix A. Wickremasinghe, M.D., was heard by R. Gregory Porter, Attorney Hearing Examiner for the State Medical Board of Ohio, on July 29, 1998.

INTRODUCTION

I. Basis for Hearing

A. By letter dated March 11, 1998, the State Medical Board of Ohio [Board] notified Felix A. Wickremasinghe, M.D., that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board based its proposed action upon allegations that Dr. Wickremasinghe had violated the terms of a June 11, 1997, Consent Agreement with the Board.

The Board alleged that Dr. Wickremasinghe's acts, conduct, and/or omissions, individually and/or collectively, constituted: "'[v]iolation 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."

Finally, the Board advised Dr. Wickremasinghe of his right to request a hearing in this matter. (State's Exhibit 1)

B. By letter received by the Board on April 8, 1998, Kevin P. Byers, Esq., requested a hearing on behalf of Dr. Wickremasinghe. (State's Exhibit 2)

II. Appearances

A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Anne B. Strait, Assistant Attorney General.

B. On behalf of the Respondent: Although Dr. Wickremasinghe had been notified in writing of his right to do so, he did not appear at the hearing either in person or by representative. Instead, Dr. Wickremasinghe presented his arguments and contentions in writing.

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EVIDENCE EXAMINED

I. Testimony Heard

Presented by the State

1. Jan E. Sussex

2. Lisa Ferguson-Ramos

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1 through 18, 31, and 32: Procedural exhibits.

2. State's Exhibit 19: Copy of a June 11, 1997, Consent Agreement between Dr. Wickremasinghe and the Board. (8 pp.)

3. State's Exhibit 20: Certified copy of an excerpt from the minutes of the September 10, 1997, meeting of the Board, concerning Dr. Wickremasinghe. (4 pp.)

4. State's Exhibit 21: Copy of a December 2, 1997, Memorandum to the Board from Raymond J. Albert, Supervising Member, concerning a probationary appearance by Dr. Wickremasinghe. (2 pp.)

5. State's Exhibit 22: Copy of a January 13, 1998, Memorandum to File concerning a probationary appearance by Dr. Wickremasinghe; a transcription of that meeting is included. (11 pp.)

6. State's Exhibit 23: Copy of a May 19, 1997, Confidential Ohio Physicians Effectiveness Program [OPEP] Advocacy Contract between OPEP and Dr. Wickremasinghe. (3 pp.) (Note: This exhibit has been sealed to protect confidentiality.)

7. State's Exhibits 24 through 28: Documents and letters from OPEP concerning Dr. Wickremasinghe.

8. State's Exhibit 29: Copy of an undated letter to Dr. Wickremasinghe from the Board ordering Dr. Wickremasinghe to submit to an examination pursuant to Sections 4731.22(B)(19) and (26), Ohio Revised Code; copies of certified mail receipts are attached. (4 pp.)

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9. State's Exhibit 30: Copy of a May 16, 1997, report of evaluation of Dr. Wickremasinghe by Tom H. Pepper, M.D., Talbot Recovery Services. (3 pp.) (Note: This exhibit has been sealed to protect confidentiality.)

B. Presented by the Respondent

Respondent's Exhibit A: Dr. Wickremasinghe's written statement. (6 pp.)

SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony, even if not specifically mentioned, were thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

1. The Board notified Felix A. Wickremasinghe, M.D., by certified mail letter received by Dr. Wickremasinghe on or about April 28, 1997, that it had reason to believe that he was in violation of Sections 4731.22(B)(19) and (26), Ohio Revised Code. The Board based its belief on reports of erratic behavior on the part of Dr. Wickremasinghe, which were delineated the Board's letter. This behavior occurred when Dr. Wickremasinghe was allegedly in an intoxicated state. The Board ordered Dr. Wickremasinghe to report to Talbot Recovery Services of Park Medical Center on May 12, 1997, for a three-day inpatient evaluation. (State's Exhibit [St. Ex.] 29)

   Following an evaluation of Dr. Wickremasinghe, Tom H. Pepper, M.D., reported to the Board that "Dr. Wickremasinghe does in fact suffer from alcohol dependency of an episodic type which is characterized by infrequent use of alcohol and an unpredictable loss of control which has led to problems in many spheres of his life[.]" Dr. Pepper suggested "that further treatment for both chemical dependency and assessment and possible treatment for underlying psychiatric disorders be required." Dr. Pepper recommended that Dr. Wickremasinghe enter into a Consent Agreement with the Board, and that the Consent Agreement provide for: that Dr. Wickremasinghe be monitored by OPEP, that Dr. Wickremasinghe abstain from mind-altering substances, "that [Dr. Wickremasinghe] enter into a facility for treatment of his alcohol dependency and assessment of his possible underlying psychopathology," and "[t]hat the treatment recommendations of that facility be incorporated in the monitoring contract with [OPEP]." (St. Ex. 30)

2. On or about June 11, 1997, Dr. Wickremasinghe entered into a Consent Agreement with the Board. The Consent Agreement was based upon the stipulation that Dr. Wickremasinghe had violated Sections 4731.22(B)(19) and (26), Ohio Revised Code. (St. Ex. 19)

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3. By the terms of the June 11, 1997, Consent Agreement, Dr. Wickremasinghe's certificate to practice medicine in Ohio was suspended for an indefinite period of time. A number of terms, conditions, and limitations were imposed, including the following:

> 6. DOCTOR WICKREMASINGHE shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the BOARD. DOCTOR WICKREMASINGHE shall ensure that all screening reports are forwarded directly to the BOARD on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board;
>
> Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR WICKREMASINGHE shall submit to the BOARD for its prior approval the name of a supervising physician to whom DOCTOR WICKREMASINGHE shall submit the required urine specimens. The supervising physician shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the BOARD of any positive screening results;
>
> DOCTOR WICKREMASINGHE shall ensure that the supervising physician provides quarterly reports to the BOARD, on forms approved or provided by the BOARD, verifying whether all urine screens have been conducted in compliance with this CONSENT AGREEMENT, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his responsibilities;
>
> In the event that the designated supervising physician becomes unable or unwilling to so serve, DOCTOR WICKREMASINGHE must immediately notify the BOARD in writing, and make arrangements acceptable to the BOARD for another supervising physician as soon as practicable. DOCTOR WICKREMASINGHE shall further ensure that the previously designated supervising physician also notifies the BOARD directly of the inability to continue to serve and the reasons therefor;
>
> All screening reports and supervising physician reports required under this paragraph must be received in the BOARD's offices no later than the due date for DOCTOR WICKREMASINGHE's quarterly declaration. It is DOCTOR WICKREMASINGHE's responsibility to ensure that reports are timely submitted.

(St. Ex. 19, pp. 3-4) (Emphases in original)

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4. Jan E. Sussex testified that she is the Compliance Officer for the Board. Ms. Sussex testified that it is her responsibility to ensure that individuals who have been placed on probation by the Board are complying with the terms of their probation. (Transcript at page [Tr.] 11)

   Ms. Sussex testified that Dr. Wickremasinghe nominated the Ohio Physician Effectiveness Program [OPEP] to act as his supervising physician. Dr. Wickremasinghe entered into an advocacy contract with OPEP on June 15, 1997. Ms. Sussex testified that urine testing did not begin until August 13, 1997, after the identification of an appropriate monitor to oversee the testing. (St. Exs. 23 and 24; Tr. 12-14)

5. Dr. Wickremasinghe made an initial appearance before the Board at its meeting on September 10, 1997. During that appearance, Dr. Wickremasinghe indicated to the Board, among other things, that he did not find Alcoholics Anonymous to be fulfilling or helpful. Some of the Board members expressed concern that Dr. Wickremasinghe was not taking his addiction problem seriously enough. Dr. Wickremasinghe was warned that he needed to "sit down with OPEP and get his aftercare and recovery on track." (St. Ex. 20)

6. On or about November 11, 1997, a status report was faxed to the Board from OPEP. This report concerned Dr. Wickremasinghe's recovery progress for the period of August through October 1997. The report indicated, among other things, that Dr. Wickremasinghe responded to requests for drug screens in a timely manner, but that "he does resist direct observation of [the] sample being provided. He met with his aftercare counselor * * * on 10-8-97 to discuss aftercare protocol and requirements. As of 11-10-97 his aftercare counselor reported he was not in compliance with his aftercare recommendations." Nevertheless, the report also stated that Dr. Wickremasinghe "present[ed] himself as being abstinent." The report further indicated that none of Dr. Wickremasinghe's urine test results had been positive. (St. Ex. 26; Tr. 14-15)

7. On December 2, 1997, Dr. Wickremasinghe made a probationary appearance pursuant to the terms of the June 11, 1997, Consent Agreement. In his written report to the Board concerning that appearance, the Supervising Member stated that "Dr. Wickremasinghe is not in compliance with the terms of his Consent Agreement based on his failure to continue aftercare and refusal on one occasion to perform a witnessed drug screen." (St. Ex. 21)

8. Dr. Wickremasinghe met again with representatives of the Board on January 13, 1998. Dr. Wickremasinghe's aftercare, monitoring, attendance at AA, and his recovery in general were discussed. During this meeting, Dr. Wickremasinghe indicated that he was committed to fulfilling the requirements for the reinstatement of his medical license. (St. Ex. 22, p. 6)

9. On or about February 5, 1998, a status report was faxed to the Board from OPEP. This report concerned Dr. Wickremasinghe's progress for the period of November 1997 through January 1998. It stated that "Dr. Wickremasinghe [had] advised OPEP during [a]

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phone conversation on 1-23-98 that he no longer desired to be involved with OPEP. His file has been placed on inactive status." (St. Exs. 27 and 28; Tr. 15-16)

Ms. Sussex testified that the Board has received no urine screen reports concerning Dr. Wickremasinghe since Dr. Wickremasinghe terminated his relationship with OPEP. Ms. Sussex stated that the latest urine screen received by the Board concerning Dr. Wickremasinghe was dated January 8, 1998. Moreover, Ms. Sussex testified that the Board has not received any request from Dr. Wickremasinghe to nominate another supervising physician as required by his June 11, 1997, Consent Agreement. (Tr. 17)

10. In his written statement, Dr. Wickremasinghe listed a number of reasons for non-compliance with the Consent Agreement. Dr. Wickremasinghe stated as follows:

a. He was asked to submit to the evaluation in Talbot Clinic because of telephone calls he made to an answering service "in an apparently intoxicated state." Dr. Wickremasinghe argued that Ohio law requires that physician impairment be directly related to the physician's ability to practice according to standards, and that "[t]here were absolutely no incidents of [his] being impaired by use of alcohol, in patient care."

b. Dr. Wickremasinghe was treated unfairly by Dr. Pepper. Dr. Pepper diagnosed Dr. Wickremasinghe as suffering from alcoholism with no examination and after speaking with Dr. Wickremasinghe "on the first day for about 10 minutes." Dr. Pepper told Dr. Wickremasinghe that the Board "was determined to take action against [Dr. Wickremasinghe] and that [Dr. Pepper] had to provide a report for the Medical Board to justify their action." Moreover, Dr. Pepper spoke to Dr. Wickremasinghe's wife without Dr. Wickremasinghe's permission. In addition:

- Dr. Pepper diagnosed Dr. Wickremasinghe as suffering from alcoholism of an "'episodic'" type. Dr. Wickremasinghe stated that such a diagnosis does not exist in the DSM-IV.

- Although Dr. Pepper had concluded that Dr. Wickremasinghe needed "intensive in-patient observation and treatment," Dr. Pepper discharged Dr. Wickremasinghe only two days after Dr. Wickremasinghe entered Talbot Clinic for treatment. Dr. Wickremasinghe stated that Dr. Pepper documented this as an "administrative discharge." Dr. Wickremasinghe argued that this action contradicted Dr. Pepper's earlier conclusions. Further, this "confirms the fact that [Dr. Pepper] prepares custom reports for the Medical Board, to justify its disciplinary actions and be complimented as one of the leading states" for physician discipline.

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c. After the Board received Dr. Pepper's report, Lisa Ferguson-Ramos contacted Dr. Wickremasinghe and told him that his license would be suspended. She further told Dr. Wickremasinghe that he "had to sign an agreement with the Medical Board on 06-05-97 or else surrender [his] license." Dr. Wickremasinghe argued that this was improper procedure because the matter should have been referred to the office of the Attorney General, and because Dr. Wickremasinghe never received a notice of opportunity for hearing. Dr. Wickremasinghe stated that he "signed the Consent Agreement under duress, because of the intimidating and persistent attitude of Ms. Ramos, who stated [that Dr. Wickremasinghe] had only two options—either sign the agreement or surrender the license."

(Respondent's Exhibit [Resp. Ex.] A)

Dr. Wickremasinghe concluded by stating that, as a result of the above, he has no faith or respect for the integrity of the Medical Board or Dr. Pepper. Dr. Wickremasinghe further stated that he does not expect an objective evaluation of his case by a Hearing Examiner who is employed by the Board. Moreover, Dr. Wickremasinghe stated that he has "also developed multiple medical problems as a direct result of violations of [his] rights to due process and abuse suffered at the hands of the authorities of the Medical Board and Dr. Pepper and hence cannot comply with the Consent Agreement." (Resp. Ex. A)

11. Lisa Ferguson-Ramos testified on behalf of the State as a rebuttal witness. Ms. Ferguson-Ramos stated that she is an Enforcement Coordinator for the Board. She testified that it is her responsibility to "review and prepare cases that are assigned for formal action." (Tr. 20-21)

Ms. Ferguson-Ramos testified that she was assigned to Dr. Wickremasinghe's case in 1996. She further testified that, during her first telephone contact with Dr. Wickremasinghe on May 21, 1997, she informed Dr. Wickremasinghe of his right to have an attorney. Moreover, Ms. Ferguson-Ramos testified that Dr. Wickremasinghe had initially mentioned the possibility of surrendering his license. (Tr. 21-25)

Ms. Ferguson-Ramos indicated that, on June 4, 1997, she faxed a proposed Consent Agreement, along with Dr. Pepper's report, to an attorney who was then representing Dr. Wickremasinghe. Ms. Ferguson-Ramos stated that some changes to the proposed Consent Agreement were negotiated with Dr. Wickremasinghe's counsel. Ms. Ferguson-Ramos stated that Dr. Wickremasinghe came to the Board's offices on June 5, 1997, and signed the Consent Agreement. She testified that Dr. Wickremasinghe was never threatened in any way, nor was he told that his only option was to sign the agreement or surrender his license. (Tr. 25-28)

Ms. Ferguson-Ramos acknowledged that no notice of opportunity for hearing was sent to Dr. Wickremasinghe prior to negotiating the Consent Agreement. However, Ms. Ferguson-Ramos testified that that was because the Consent Agreement was executed in lieu of sending

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such a notice. Ms. Ferguson-Ramos stated that such a notice would have been issued had Dr. Wickremasinghe not entered into a Consent Agreement with the Board. (Tr. 28-29)

FINDINGS OF FACT

1. On or about June 11, 1997, Dr. Wickremasinghe entered into a Consent Agreement with the Board. The Consent Agreement was based upon the stipulation that Dr. Wickremasinghe had violated Sections 4731.22(B)(19) and (26), Ohio Revised Code.

2. By the terms of the June 11, 1997, Consent Agreement, Dr. Wickremasinghe's certificate to practice medicine in Ohio was suspended for an indefinite period of time. A number of terms, conditions, and limitations were imposed, including the following:

   - That Dr. Wickremasinghe submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board.

   - That Dr. Wickremasinghe "submit to the Board for its prior approval the name of a supervising physician to whom Dr. Wickremasinghe shall submit the required urine specimens. The supervising physician shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnesses by a reliable person, and that appropriate control over the specimen is maintained."

   - That "[i]n the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Wickremasinghe must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable."

   - That "[a]ll screening reports and supervising physician reports * * * be received in the Board's offices no later than the due date for Dr. Wickremasinghe's quarterly declaration. It is Dr. Wickremasinghe's responsibility to ensure that reports are timely submitted."

3. Dr. Wickremasinghe submitted his required random weekly urine screens through the Ohio Physician Effectiveness Program [OPEP].

   On or about November 11, 1997, a status report was faxed to the Board from OPEP. This report concerned Dr. Wickremasinghe's recovery progress for the period of August through October 1997. The report indicated, among other things, that Dr. Wickremasinghe responded to requests for drug screens in a timely manner, but that "he does resist direct observation of [the] sample being provided."

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On or about February 5, 1998, a status report was faxed to the Board from OPEP. This report concerned Dr. Wickremasinghe's progress for the period of November 1997 through January 1998. This report stated that "Dr. Wickremasinghe advised OPEP during [a] phone conversation on 1-23-98 that he no longer desired to be involved with OPEP. His file has been placed on inactive status."

The Board has received no urine screen reports concerning Dr. Wickremasinghe since Dr. Wickremasinghe terminated his relationship with OPEP. The latest urine screen received by the Board concerning Dr. Wickremasinghe was dated January 8, 1998. Moreover, the Board has not received any request from Dr. Wickremasinghe to nominate another supervising physician as required by his June 11, 1997, Consent Agreement.

CONCLUSIONS OF LAW

As set forth in the Findings of Fact, the acts, conduct, and/or omissions of Felix A. Wickremasinghe, M.D., individually and/or collectively, constitute: "[v]iolation of the conditions of limitation placed by the board upon a certificate to practice[,]" as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

* * * * *

It has long been the policy of this Board to work with impaired physicians and assist them in their recovery from mental illness and addiction. Nevertheless, it is apparent from Dr. Wickremasinghe's conduct and statements that he has no intention of cooperating with the Board toward these efforts. Under these circumstances, the Board must, regrettably, remove Dr. Wickremasinghe from the practice of medicine in Ohio.

PROPOSED ORDER

It is hereby ORDERED that the certificate of Felix A. Wickremasinghe, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

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

EXCERPT FROM THE DRAFT MINUTES OF OCTOBER 14, 1998

REPORTS AND RECOMMENDATIONS

Dr. Buchan announced that the Board would now consider the findings and orders appearing on the Board's agenda.

Dr. Buchan 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: Harold Blumberg, M.D.; Michael L. Herman, M.D.; Waymon D. Jerkins, D.P.M.; Gary Ray Lutz, D.O.; Robert Starr, M.D.; Usha Sudindranath, M.D.; Felix A. Wickremasinghe, M.D.; and Robert A. Williams, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Buchan	- aye

Dr. Buchan 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:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

Dr. Buchan - aye

In accordance with the provision in Section 4731.22(C)(1), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters.

Dr. Buchan stated that if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

.....

FELIX A. WICKREMASINGHE, M.D.

.....

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF FELIX A. WICKREMASINGHE, M.D. DR. SOMANI SECONDED THE MOTION.

.....

A vote was taken on Dr. Steinbergh's motion to approve and confirm:

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye
	Dr. Buchan	- aye

The motion carried.

State Medical Board of Ohio

March 11, 1998

NOTICE OF OPPORTUNITY FOR HEARING

Felix A. Wickremasinghe, M.D.
536 Vaughn Ridge Road
West Union, OH 45693

Dear Doctor Wickremasinghe:

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)(a) On or about June 11, 1997, you entered into a Consent Agreement with the State Medical Board of Ohio based upon your violations of Sections 4731.22(B)(19) and (26), Ohio Revised Code. The Consent Agreement indefinitely suspended your license to practice medicine and surgery in the State of Ohio with certain terms, conditions, and limitations effective during that suspension. A copy of the June 11, 1997, Consent Agreement is attached hereto and incorporated herein.

(1)(b) Paragraph six of the June 11, 1997, Consent Agreement required you to comply with the following:

> DOCTOR WICKREMASINGHE shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the BOARD. DOCTOR WICKREMASINGHE shall ensure that all screening reports are forwarded directly to the BOARD on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board;
>
> Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR WICKREMASINGHE shall submit to the BOARD for its prior approval the name of a supervising physician to whom DOCTOR WICKREMASINGHE shall submit the required urine specimens. The supervising physician shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In

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addition, the supervising physician shall immediately inform the BOARD of any positive screening results;

DOCTOR WICKREMASINGHE shall ensure that the supervising physician provides quarterly reports to the BOARD, on forms approved or provided by the BOARD, verifying whether all urine screens have been conducted in compliance with this CONSENT AGREEMENT, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his responsibilities;

In the event that the designated supervising physician becomes unable or unwilling to so serve, DOCTOR WICKREMASINGHE must immediately notify the BOARD in writing, and make arrangements acceptable to the BOARD for another supervising physician as soon as practicable. DOCTOR WICKREMASINGHE shall further ensure that the previously designated supervising physician also notifies the BOARD directly of the inability to continue to serve and the reasons therefor;

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

Since August 1997, you have been submitting your required random weekly drug screens through the Ohio Physician's Effectiveness Program (hereinafter OPEP).

On or about November 12, 1997, the Board received a quarterly status report from OPEP with comments that you had "resisted" direct observation of a urine drug sample.

Further, on or about February 9, 1998, the Board received a quarterly status report from OPEP stating that your file had been placed on inactive status because you had advised OPEP on January 23, 1998, that you no longer desired to be involved with their organization. The February status report also indicates that your last random weekly drug screen was conducted on January 8, 1998.

Further, to date, you have failed to notify the Board that OPEP is no longer serving as your supervising physician. Further, the Board has not received any information regarding your having made arrangements for a new supervising physician.

Your acts, conduct, and/or omissions as alleged in paragraph (1)(b) above, individually and/or collectively, constitute a "[v]iolation 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.

No other issues shall be deemed to have been decided for or against you by the issuance of this letter, and the Board reserves the right to propose denial of your licensure reinstatement application based on any and all other existing evidence concerning potential violations of Chapter 4731., Ohio Revised Code.

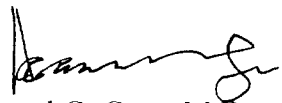
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

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,



Anand G. Garg, M.D.
Secretary

AGG/bjs
Enclosures

CERTIFIED MAIL #P 152 984 767
RETURN RECEIPT REQUESTED

cc: Kevin Byers, Esq.
CERTIFIED MAIL #P 152 984 766
RETURN RECEIPT REQUESTED

CONSENT AGREEMENT
BETWEEN
FELIX WICKREMASINGHE, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

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

FELIX WICKREMASINGHE, 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 Sections 4731.22(B)(19) and (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 "(i)nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills," and "(i)mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice."

B. THE STATE MEDICAL BOARD OF OHIO enters into this CONSENT AGREEMENT in lieu of formal proceedings based upon the violation of Sections 4731.22(B)(19) and (26), Ohio Revised Code, as detailed in paragraphs D and E 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. FELIX WICKREMASINGHE, M.D., is licensed to practice medicine and surgery in the State of Ohio.

D. FELIX WICKREMASINGHE, M.D., ADMITS that on or about May 12, 1997, by order of the State Medical Board of Ohio under Sections 4731.22(B)(19) and (26), Ohio Revised Code, he submitted to an examination that was conducted under the direction of Tom H. Pepper, M.D., at Talbot Recovery Services of Park Medical Center, a Board approved treatment provider in Columbus, Ohio.

E. DOCTOR WICKREMASINGHE further ADMITS that he denied having an alcohol problem during the course of his evaluation. However, on May 15, 1997, following his discharge from Talbot Recovery Services, DOCTOR WICKREMASINGHE ADMITS that he became intoxicated. Further, DOCTOR WICKREMASINGHE ADMITS that he contacted Dr. Pepper on May 16, 1997, and requested counseling for his alcohol problem.

DOCTOR WICKREMASINGHE further ADMITS that the conclusions of the evaluation were that he suffers from alcohol dependency of an episodic type and possible underlying psychopathology which, when combined with alcohol, erupts into outbursts of inappropriate behavior that may represent a risk to himself or others.

DOCTOR WICKREMASINGHE further ADMITS that Dr. Pepper recommended inpatient treatment for alcohol dependency and assessment of possible underlying psychopathology, and Board monitoring under a consent agreement.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, DOCTOR WICKREMASINGHE, M.D., knowingly and voluntarily agrees with THE STATE MEDICAL BOARD OF OHIO, (hereinafter BOARD), to the following terms, conditions and limitations:

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

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

3. DOCTOR WICKREMASINGHE shall abstain completely from the use of alcohol;

4. DOCTOR WICKREMASINGHE shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for DOCTOR WICKREMASINGHE's chemical dependency or related conditions, or for purposes of complying with the CONSENT AGREEMENT, whether such treatment or evaluation occurred before or after the effective date of this CONSENT AGREEMENT. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. DOCTOR WICKREMASINGHE further agrees to provide the BOARD written consent permitting any treatment provider from whom he obtains treatment to notify the BOARD in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this CONSENT AGREEMENT.

5. DOCTOR WICKREMASINGHE shall appear in person for quarterly interviews before the BOARD or its designated representative, or as otherwise directed by the BOARD.

If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled. (Example: The first quarterly appearance is scheduled for February, but based upon the doctor's serious personal illness he is permitted to delay appearance until April. The next appearance will still be scheduled for May, three months after the appearance as originally scheduled.) Although the BOARD will normally give DOCTOR WICKREMASINGHE written notification of scheduled appearances, it is DOCTOR WICKREMASINGHE's responsibility to know when personal appearances will occur. If he does not receive written notification from the BOARD by the end of the month in which the appearance should have occurred, DOCTOR WICKREMASINGHE shall immediately submit to the BOARD a written request to be notified of his next scheduled appearance;

6. DOCTOR WICKREMASINGHE shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the BOARD. DOCTOR WICKREMASINGHE shall ensure

that all screening reports are forwarded directly to the BOARD on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board;

Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR WICKREMASINGHE shall submit to the BOARD for its prior approval the name of a supervising physician to whom DOCTOR WICKREMASINGHE shall submit the required urine specimens. The supervising physician shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the BOARD of any positive screening results;

DOCTOR WICKREMASINGHE shall ensure that the supervising physician provides quarterly reports to the BOARD, on forms approved or provided by the BOARD, verifying whether all urine screens have been conducted in compliance with this CONSENT AGREEMENT, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his responsibilities;

In the event that the designated supervising physician becomes unable or unwilling to so serve, DOCTOR WICKREMASINGHE must immediately notify the BOARD in writing, and make arrangements acceptable to the BOARD for another supervising physician as soon as practicable. DOCTOR WICKREMASINGHE shall further ensure that the previously designated supervising physician also notifies the BOARD directly of the inability to continue to serve and the reasons therefor;

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

7. The BOARD shall not consider reinstatement of DOCTOR WICKREMASINGHE's certificate to practice medicine and surgery unless and until all of the following conditions are met:

a. DOCTOR WICKREMASINGHE shall submit an application for reinstatement accompanied by appropriate fees, if any;

b. DOCTOR WICKREMASINGHE 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 DOCTOR WICKREMASINGHE has successfully completed any required inpatient treatment;

ii. Evidence of continuing full compliance with an aftercare contract or consent agreement;

iii. One written report indicating that DOCTOR WICKREMASINGHE'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 report shall be made by an individual or provider approved by the BOARD for making such assessments and shall describe the basis for this determination.

iv. One written report of an evaluation by a psychiatrist, approved in advance by the BOARD, indicating that DOCTOR WICKREMASINGHE's ability to practice has been assessed and that DOCTOR WICKREMASINGHE has been found capable of practicing in accordance with acceptable and prevailing standards of care. Such report shall describe with particularity the basis for this determination and shall set forth any recommended treatment, monitoring, or limitations upon DOCTOR WICKREMASINGHE's practice.

c. DOCTOR WICKREMASINGHE shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the BOARD or, if the BOARD and DOCTOR WICKREMASINGHE are unable to agree on the terms of a written CONSENT AGREEMENT, then DOCTOR WICKREMASINGHE further agrees to abide by any terms,

conditions and limitations imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Ohio Revised Code.

Further, upon reinstatement of DOCTOR WICKREMASINGHE's certificate to practice medicine and surgery in this state, the BOARD shall require continued monitoring which shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Revised Code and, upon termination of the consent agreement or Board Order, submission to the BOARD for at least two years of annual progress reports made under penalty of BOARD disciplinary action or criminal prosecution stating whether DOCTOR WICKREMASINGHE has maintained sobriety.

8. In the event that DOCTOR WICKREMASINGHE has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement, the BOARD may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of DOCTOR WICKREMASINGHE fitness to resume practice.

9. Within thirty (30) days of the effective date of this Agreement, DOCTOR WICKREMASINGHE 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 a license to practice. DOCTOR WICKREMASINGHE 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 licensure or reinstatement of licensure. Further, DOCTOR WICKREMASINGHE shall provide this BOARD with a copy of the return receipt as proof of notification within thirty (30) days of receiving that return receipt.

10. Within thirty (30) days of the effective date of this Agreement, DOCTOR WICKREMASINGHE shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he is under contract to provide physician services or is receiving training; and the Chief of Staff at each hospital where he has 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 pa tie

If, in the discretion of the Secretary and Supervising Member of THE STATE MEDICAL BOARD OF OHIO, DOCTOR WICKREMASINGHE 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 breaches, including but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Agreement.

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

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

FELIX WICKREMASINGHE, M.D.

6/5/97
DATE

THOMAS E. GRETTER, M.D.
Secretary

6/11/97
DATE

RAYMOND J. ALBERT
Supervising Member

6/11/97
DATE

ANNE B. STRAIT, ESQ.
Assistant Attorney General

6/11/97
DATE

Rev. 9/26/95