CONSENT AGREEMENT
BETWEEN
THOMAS S. BURKERT, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

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

THOMAS S. BURKERT, 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)(13), 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 "a plea of guilty to, or a judicial finding of guilt of, a misdemeanor involving moral turpitude."

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)(13), Ohio Revised Code, as detailed in paragraph (D) of this 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 Agreement.

C. THOMAS S. BURKERT, M.D. has applied for a certificate to practice medicine and surgery in the State of Ohio.

D. On or about August 25, 1993, in the Mahoning County Court of Common Pleas THOMAS S. BURKERT, M.D. was found guilty of Public Indecency in violation of Section 2907.09, Ohio Revised Code, a fourth degree misdemeanor. A court ordered psychological evaluation as part of sentencing indicated that THOMAS S. BURKERT, M.D. showed no signs of psychopathology, drug or alcohol difficulties, or aggressive behaviors. A BOARD ordered psychological evaluation pursuant to Section 4731.22(B)(19), Ohio Revised Code, indicated the need for further psychotherapy and BOARD monitoring for a specified time period.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, THOMAS S. BURKERT, M.D. shall be granted a certificate to practice medicine and surgery in the State of Ohio and knowingly and voluntarily agrees with THE STATE MEDICAL BOARD OF OHIO, (hereinafter BOARD), to the following PROBATIONARY terms, conditions and limitations:

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

2. DOCTOR BURKERT shall submit quarterly declarations under penalty of BOARD disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this CONSENT AGREEMENT;

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

4. In the event that DOCTOR BURKERT should leave Ohio for three (3) continuous months, or reside or practice outside the State, DOCTOR BURKERT must notify the BOARD in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this period under the CONSENT AGREEMENT, unless otherwise determined by motion of the BOARD in instances where the BOARD can be assured that probationary monitoring is otherwise being performed;

5. In the event DOCTOR BURKERT is found by the Secretary of the Board to have failed to comply with any provision of this agreement, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under the CONSENT AGREEMENT;

6. Within thirty (30) days of the effective date of this Agreement, DOCTOR BURKERT shall submit to the BOARD for its prior approval the name and qualifications of a psychiatrist or psychologist of his choice. Upon approval by the BOARD, DOCTOR BURKERT shall undergo and continue psychiatric treatment on a weekly basis, or as otherwise directed by the BOARD. DOCTOR BURKERT 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. Further, DOCTOR BURKERT shall provide to his BOARD approved psychiatrist or psychologist a copy of the confidential report of evaluation written in

accordance with a BOARD ordered evaluation pursuant to Section 4731.22(B)(19), Ohio Revised Code;

7. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR BURKERT shall submit for the BOARD's prior approval the name of a monitoring physician who shall otherwise monitor DOCTOR BURKERT and provide the BOARD with quarterly reports on the doctor's progress and status. DOCTOR BURKERT shall ensure that such reports are forwarded to the BOARD on a quarterly basis. Further, DOCTOR BURKERT shall provide to his BOARD approved monitoring physician a copy of the confidential report of evaluation written in accordance with a BOARD ordered evaluation pursuant to Section 4731.22(B)(19), Ohio Revised Code.

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

8. DOCTOR BURKERT shall have a third party present when conducting a physical examination of the sexual and reproductive organs or rectum of female patients;

9. Within thirty (30) days of the effective date of this Agreement, DOCTOR BURKERT shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he contracts to provide physician services or receive training; and the Chief of Staff at each hospital where he has, applies for, or obtains privileges or appointments.

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

If, in the discretion of the Secretary and Supervising Member of THE STATE MEDICAL BOARD OF OHIO, DOCTOR BURKERT appears to have violated or breached any terms or conditions 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 BURKERT 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 BURKERT 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 shall become effective upon the last date of signature below.

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

Thomas S. Burkert M.D.
THOMAS S. BURKERT, M.D.

3-6-95
DATE

THOMAS E. GRETTER, M.D.
Secretary

3/9/95
DATE

RAYMOND J. ALBERT
Supervising Member

3/9/95
DATE

ANNE C. STRAIT, ESQ.
Assistant Attorney General

3/9/95
DATE