

**STEP ONE
CONSENT AGREEMENT
BETWEEN
SCOTT H. STUART, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO**

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

SCOTT H. STUART, M.D., enters into this CONSENT AGREEMENT being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

BASIS FOR ACTION

This CONSENT AGREEMENT is entered into on the basis of the following stipulations, admissions and understandings:

- A. THE STATE MEDICAL BOARD OF OHIO is empowered by Section 4731.22(B)(19), 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 "inability 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."
- B. THE STATE MEDICAL BOARD OF OHIO enters into this CONSENT AGREEMENT in lieu of further formal proceedings based upon Section 4731.22(B)(19), Ohio Revised Code, as set forth in the Notice of Opportunity for Hearing dated September 9, 1998, which Notice is attached hereto as Exhibit A and incorporated herein by this reference, 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. SCOTT H. STUART, M.D., ADMITS the allegations set forth in the September 9, 1998 Notice of Opportunity for Hearing, attached hereto as Exhibit A.

- D. SCOTT H. STUART, M.D., further ADMITS that he has undergone inpatient treatment for Major Depressive Disorder, Recurrent, Severe, at Mt. Carmel Medical Center in April, 1996, at Riverside Methodist Hospital in May, 1996, at Ohio State University Hospitals in October, 1996 and at Ohio State University Hospitals in April, 1997. During the course of these hospitalizations, he was placed on various medications and underwent electroconvulsive treatments (ECTs).
- E. SCOTT H. STUART further ADMITS that he was admitted to the Neuropsychiatric Facility of the Ohio State University Hospitals from October 8, 1998 until October 17, 1998 for additional treatment of his Major Depressive Disorder, Recurrent, Severe. He was subsequently re-admitted from November 24, 1998 until December 3, 1998 and from December 11, 1998 until December 21, 1998 for continued psychiatric treatment. During the October and December 1998 hospitalizations he was again placed on various medications and underwent ECTs. His discharge recommendations included continued treatment with Lithium and Depakote, and follow-up psychiatric care on an outpatient basis.

AGREED CONDITIONS

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

SUSPENSION OF CERTIFICATE

1. The certificate of DOCTOR STUART to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than one year;

CONDITIONS FOR REINSTATEMENT

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

- a. DOCTOR STUART shall submit an application for reinstatement, accompanied by appropriate fees, if any.
- b. DOCTOR STUART 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). Evidence of continuing full compliance with a psychiatric treatment plan, including, but not limited to, psychotherapy and prescribed and/or ordered medications, for a period of time not less than one year immediately preceding the application for reinstatement.

The treatment shall be conducted by a psychiatrist, approved in advance by the BOARD, who has reviewed DOCTOR STUART's psychiatric treatment records from the above-listed hospitalizations, the psychiatric treatment records from any subsequent hospitalizations, the treatment records from any outpatient psychiatric or psychological treatment or counseling, the May 1998 report from the BOARD's evaluating psychiatrist, and this Consent Agreement, prior to formulating DOCTOR STUART's psychiatric treatment plan.

- (ii). Two written reports indicating that DOCTOR STUART has been psychiatrically evaluated and that DOCTOR STUART's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standard of care. The evaluations shall be conducted by psychiatrists approved in advance by the BOARD, one of whom shall be Howard H. Sokolov, M.D., unless he is unavailable. Prior to the assessments, DOCTOR STUART shall provide the evaluators with copies of his patient records from any psychiatric treatment that he has received, including but not limited to his psychiatric treatment records from the above-listed hospitalizations, the psychiatric treatment records from any subsequent hospitalizations, the

treatment records from any outpatient psychiatric or psychological treatment or counseling, a copy of the May 1998 report from the BOARD's' evaluating psychiatrist, the treatment records from the psychiatric treatment pursuant to paragraph 2.b.(i), and a copy of this Consent Agreement. The reports shall describe the basis for the evaluators' determinations and shall include a detailed recommended plan of any care, counseling, and treatment that may be required for DOCTOR STUART's psychiatric disorder. The reports shall also include any recommended conditions, restrictions, or limitations that should be imposed on DOCTOR STUART's practice. One of the reports may be submitted by DOCTOR STUART's BOARD approved treating psychiatrist.

- (iii). One written report, submitted by a neurologist, approved in advance by the BOARD, indicating that DOCTOR STUART has been evaluated by a neurological examination and neuropsychiatric testing and that DOCTOR STUART has been found capable of practicing according to acceptable and prevailing standards of care. Prior to the neurological assessment, DOCTOR STUART shall provide the neurologist with copies of his patient records from any psychiatric treatment that he has received, including but not limited to his psychiatric treatment records from the above-listed hospitalizations, the psychiatric treatment records from any subsequent hospitalizations, the treatment records from any outpatient psychiatric or psychological treatment or counseling, a copy of the May 1998 report from the BOARD's' evaluating psychiatrist, the treatment records from the psychiatric treatment pursuant to paragraph 2.b.(i), and a copy of this Consent Agreement. The report shall describe the basis for the determination and shall include any recommended conditions, restrictions, or limitations that should be imposed on DOCTOR STUART's practice.

- (iv). In the event that DOCTOR STUART has not engaged in the active practice of medicine and surgery for a period of

time in excess of two years, DOCTOR STUART shall provide proof acceptable to the BOARD that he has taken and passed the SPEX (Special Purpose Examination), or its equivalent as approved in advance by the BOARD.

- c. DOCTOR STUART shall provide the BOARD with a list of names and addresses of any providers and/or institutions who have provided psychiatric treatment and/or counseling for DOCTOR STUART since the completion of his BOARD ordered evaluation in April 1998.

Further, DOCTOR STUART 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 and/or counseling for DOCTOR STUART's psychiatric illness or related conditions. 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.

- d. DOCTOR STUART shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the BOARD for a minimum of ten years, or, if the BOARD and DOCTOR STUART are unable to agree on the terms of a written CONSENT AGREEMENT, then DOCTOR STUART 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 STUART'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 of 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 STUART has maintained compliance with his psychiatric treatment plan.

3. In the event that DOCTOR STUART 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 STUART's fitness to resume practice.

REQUIRED REPORTING BY LICENSEE

4. Within thirty (30) days of the effective date of this Agreement, DOCTOR STUART 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 STUART 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 STUART shall provide this BOARD with a copy of the return receipt as proof of notification within thirty (30) days of receiving that return receipt.

5. Within thirty (30) days of the effective date of this Agreement, DOCTOR STUART 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 wherein 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 parties.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of THE STATE MEDICAL BOARD OF OHIO, DOCTOR STUART 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.

ACKNOWLEDGMENTS/LIABILITY RELEASE

DOCTOR STUART 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.

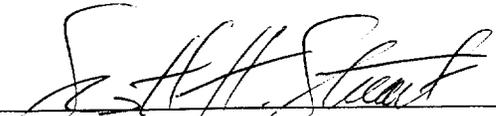
DOCTOR STUART hereby releases THE STATE MEDICAL BOARD OF OHIO, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This CONSENT AGREEMENT shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code.

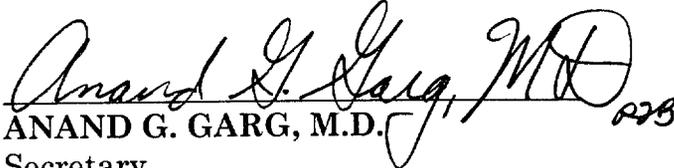
Further, this information may be reported to appropriate organizations, data banks and governmental bodies.

EFFECTIVE DATE

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



SCOTT H. STUART, M.D.



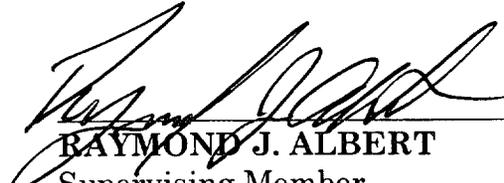
ANAND G. GARG, M.D. *278*
Secretary

DATE 1/15/99

DATE 2/11/99

KPBFLS
KEVIN P. BYERS, Esq.
Attorney for Scott H. Stuart, M.D.

1/15/99
DATE


RAYMOND J. ALBERT
Supervising Member

2/10/99
DATE


ANNE BERRY STRAIT
Assistant Attorney General

2/10/99
DATE



State Medical Board of Ohio

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

September 9, 1998

Scott H. Stuart, M.D.
3788 Kellen Drive
Columbus, OH 43230

Dear Doctor Stuart:

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) Pursuant to an order from the State Medical Board of Ohio under Section 4731.22(B)(19), Ohio Revised Code, you submitted to a psychiatric examination that was conducted by Howard H. Sokolov, M.D., at Harding Hospital, in Columbus, Ohio.

On May 28, 1998, Dr. Sokolov forwarded a report of the evaluation to the Board. In the report, Dr. Sokolov opined that you suffer from an inability to practice medicine according to acceptable and prevailing standards of care due to mental illness, based in part, upon the following findings:

That you suffer from Major Depressive Disorder, Recurrent, Severe, with catatonic and psychotic features, now in remission;

That you have experienced four hospitalizations for mental illness in the past two years, and your history strongly indicates that as you begin to slip into illness symptoms, you become resistant to recognizing your problems, uncooperative with treatment, and most often have to be involuntarily admitted into the hospital;

That you have not been compliant with medication, and have not received any psychiatric treatment in the last year;

That you continue to minimize the strong biological component to your illness as well as your significant psychological conflicts, and see your illness as primarily resulting from stress and exhaustion. In addition, you do not appear to recognize the likelihood of recurrence of your illness, given the natural history of the disorder, but see yourself as able to prevent such reoccurrence through rest and reduced stress;

That you are an anxious person who fears that you may make mistakes if practicing medicine and have not practiced in the past year and a half. You plan to seek out

Mailed 9/10/98

options which remove you from clinical decisions with patients by focusing on public health issues. However, you may be subject to financial and family pressures to resume some clinical practice. If you are becoming ill, your judgment suffers.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute “[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,” as that clause is used in Section 4731.22(B)(19), 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 #Z 395 591 304
RETURN RECEIPT REQUESTED

cc: Kevin Byers, Esq.
CERTIFIED MAIL #Z 395 591 303
RETURN RECEIPT REQUESTED

CITE

JAM

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

SCOTT H. STUART, MD
3788 KELLEN DRIVE
COLUMBUS, OH 43230

4a. Article Number
Z 395 591 304

4b. Service Type

Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
09/11/98

5. Signature (Addressee)
Scott H. Stuart

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)

PS Form 3811, December 1991 ☆ U.S.G.P.O.: 1992-307-530

DOMESTIC RETURN RECEIPT

Thank you for using Return Receipt Service.

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

JAM

I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Kevin P. Byers, Esq.
Suite 260
10 West Broad Street
Columbus, OH 43215

4a. Article Number
Z 395 591 303

4b. Service Type

Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
09/10/98

5. Signature (Addressee)
KP Byers

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)

CITE - STUART

PS Form 3811, December 1991 ☆ U.S.G.P.O.: 1992-307-530

DOMESTIC RETURN RECEIPT

Thank you for using Return Receipt Service.