

2010 NOV 10 PM 12: 21

**CONSENT AGREEMENT  
BETWEEN  
GABRIEL JOHN YANDAM, M.D.,  
AND  
THE STATE MEDICAL BOARD OF OHIO  
CASE NO. 09-CRF-137**

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

Dr. Yandam 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 violation of Section 4731.22(B)(6), Ohio Revised Code, for “a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established.”
- B. The Board enters into this Consent Agreement in lieu of additional formal proceedings based upon the violation of Section 4731.22(B)(6), Ohio Revised Code, as set forth in the Notice of Opportunity for Hearing dated October 14, 2009. The Board expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement.
- C. Dr. Yandam is licensed to practice medicine and surgery in the State of Ohio, License number 35.070595.
- D. Dr. Yandam states that he is not licensed to practice in any other state or jurisdiction.
- E. The parties stipulate and agree that this agreement is entered into in lieu of further formal disciplinary proceedings in Case No. 09-CRF-137, as set forth in the Notice of Opportunity for Hearing issued by the Board on October 14, 2009 (“Notice of Opportunity”), a copy of which is attached hereto as Exhibit A and

fully incorporated herein. Dr. Yandam hereby admits to the factual and legal allegations of the conduct alleged by the Board in the notice letter in paragraphs (1)(a), (b), and (e) and in (2)(a) and (b) insofar as those factual and legal allegations relate to his medical chart documentation only. Dr. Yandam admits that his medical chart documentation or lack thereof violates R.C. 4731.22(B)(6). Further, upon this Consent Agreement becoming effective, the Board hereby dismisses the additional legal violations of R.C. 4731.22(B)(6) alleged in the aforementioned Notice of Opportunity for hearing in paragraphs 1(c), 1(d) and 2(c)-(f).

### **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. Yandam knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

#### **REPRIMAND**

1. Dr. Yandam is hereby REPRIMANDED for his admitted conduct as set forth in Paragraph E, above.

#### **PROBATION**

2. Dr. Yandam's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least one year:
  - a. **Obey the law:** Dr. Yandam shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
  - b. **Medical Records Course:** Before the end of the first year of probation, or as otherwise approved by the Board, Dr. Yandam shall complete a course on maintaining adequate and appropriate medical records, such course to be approved in advance by the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Yandam submits the documentation of successful completion of the course or courses on maintaining adequate and appropriate medical records, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

2010 NOV 10 PM 12:21  
STATE MEDICAL BOARD  
OF OHIO

STATE MEDICAL BOARD  
OF OHIO  
2010 NOV 10 PM 12: 21

### **REQUIRED REPORTING BY LICENSEE**

3. Within thirty days of the effective date of this Consent Agreement, Dr. Yandam shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services (including but not limited to third party payors) or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Yandam shall promptly 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. In the event that Dr. Yandam provides any health care services or health care direction or medical oversight to any emergency medical services organization or emergency medical services provider, within thirty days of the effective date of this Consent Agreement Dr. Yandam shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, Dr. Yandam shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
  
4. Within thirty days of the effective date of this Consent Agreement, Dr. Yandam shall provide a copy of this Consent Agreement to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Dr. Yandam further agrees to provide a copy of this Consent Agreement 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. Yandam shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the

STATE MEDICAL BOARD  
OF OHIO  
2010 NOV 10 PM 12: 21

Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

5. Dr. Yandam shall notify the Board in writing of any change of principal practice address or residence address within thirty days of such change.

#### **DURATION/MODIFICATION OF TERMS**

The Reprimand of Dr. Yandam shall not terminate. Further, Dr. Yandam shall not request termination of the probationary terms, conditions, and limitations contained in this Consent Agreement for a minimum of one year. In addition, Dr. Yandam shall not request modification to the probationary terms, limitations, and conditions contained herein for at least one year, except that Dr. Yandam may make such a request with the mutual approval and joint recommendation of the Secretary and Supervising Member. Otherwise, the above-described terms, limitations, and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

In the event that the Board initiates future formal proceedings against Dr. Yandam, including but not limited to issuance of a Notice of Opportunity for Hearing, this Consent Agreement shall continue in full force and effect until such time that it is superseded by ratification by the Board of a subsequent Consent Agreement or issuance by the Board of a final Board Order.

In the event that any term, limitation, or condition contained in this Consent Agreement is determined to be invalid by a court of competent jurisdiction, Dr. Yandam and the Board agree that all other terms, limitations, and conditions contained in this Consent Agreement shall be unaffected.

#### **FAILURE TO COMPLY**

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Yandam 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. Yandam 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.

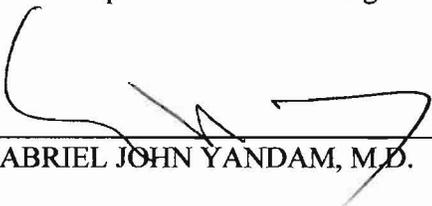
Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

Dr. Yandam 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. Yandam acknowledges that his social security number will be used if this information is so reported and agrees to provide his/her 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.

  
\_\_\_\_\_  
GABRIEL JOHN YANDAM, M.D.

  
\_\_\_\_\_  
LANCE A. TALMAGE, M.D.  
Secretary

November 9, 2010  
\_\_\_\_\_  
DATE

11-10-10  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
JEFFREY JURCA  
Attorney for Dr. Yandam

  
\_\_\_\_\_  
RAYMOND J. ALBERT  
Supervising Member

11/10/2010  
\_\_\_\_\_  
DATE

11/10/10  
\_\_\_\_\_  
DATE

STATE MEDICAL BOARD  
OF OHIO  
2010 NOV 10 PM 12:21

Robert B. Graziano (by *[Signature]*)  
ROBERT GRAZIANO *per authorization*  
Attorney for Dr. Yandam

Katherine Bockbrader  
KATHERINE BOCKBRADER  
Assistant Attorney General

11/10/2010  
DATE

11-10-10  
DATE

*[Signature]*  
KYLE C. WILCOX  
Assistant Attorney General

11-10-10  
DATE

STATE MEDICAL BOARD  
OF OHIO  
2010 NOV 10 PM 12:21

# State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.  
Executive Director

(614) 466-3934  
med.ohio.gov

October 14, 2009

Case number: 09-CRF- 137

Gabriel John Yandam, M.D.  
2110 Otseco Ave.  
Coshocton, Ohio 43812

Dear Doctor Yandam:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) From in or about October 2006 to in or about November 2006, you undertook the care of Patients 1 and 2, as identified on the attached Patient Key, in the course of your obstetrics and gynecology practice (Patient Key confidential and to be withheld from public disclosure).
  - (a) You failed to perform and/or document performing an appropriate history and physical of Patient 1 as part of her prenatal care.
  - (b) You failed to inform and/or document informing Patient 1 that she was a high-risk pregnancy.
  - (c) You inappropriately administered Oxytocin to Patient 1, and furthermore, failed to document your reasons for administering Oxytocin to Patient 1 outside an appropriate clinical setting.
  - (d) You failed to deliver Patient 2, the infant of Patient 1, in a hospital despite Patient 1 having a high-risk pregnancy.
  - (e) You failed to appropriately document the shoulder dystocia of Patient 2 during Patient 1's labor, and furthermore, failed to appropriately document Patient 1's maternal death.

*Mailed 10-15-09*

- (2) From in or about October 2004 to in or about May 2005, you undertook the care of Patients 3 and 4, as identified on the attached Patient Key, in the course of your obstetrics and gynecology practice (Patient Key confidential and to be withheld from public disclosure).
- (a) You failed to discuss and/or document discussing a smoking cessation counseling program with Patient 3.
  - (b) You failed to promptly perform and/or document promptly performing an appropriate physical exam on Patient 3 upon her admission to Coshocton County Memorial Hospital [CCMH] with ruptured membranes.
  - (c) You failed to appropriately initiate transfer of Patient 3's care from CCMH, a Level 1 Perinatal Center, to a Level 3 Perinatal Center, despite Patient 3 presenting with ruptured membranes at 34 weeks gestation.
  - (d) You inappropriately administered Bethine to Patient 3, and furthermore, failed to appropriately document the use of this medication.
  - (e) You failed to appropriately administer antibiotics to Patient 3.
  - (f) Your management of Patients 3 and 4, including but not limited to, your failure to have Patient 3 transferred to a Level 3 Perinatal Center, led to Patient 4, the infant of Patient 3, to suffer newborn sepsis, encephalopathy and cerebral palsy.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) and (2) above, individually and/or collectively, constitute “[f]ailure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease,” as those clauses are used in Section 4731.22(B)(2), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) and (2) above, individually and/or collectively, constitute “[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established,” as that clause is used in Section 4731.22(B)(6), 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 days of the time of mailing of this notice.

Gabriel John Yandam, M.D.

Page 3

You are further advised that, if you timely request a hearing, 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 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, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.  
Secretary

LAT/DSZ/flb  
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3070 4237  
RETURN RECEIPT REQUESTED

cc: Robert B. Graziano, Esq.  
Roetzel & Andress, LPA  
155 East Broad Street  
National City Plaza, 12<sup>th</sup> Floor  
Columbus, Ohio 43215

CERTIFIED MAIL #91 7108 2133 3936 3070 4220  
RETURN RECEIPT REQUESTED

# State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.  
Executive Director

(614) 466-3934  
med.ohio.gov

October 14, 2009

Case number: 09-CRF- 137

Gabriel John Yandam, M.D.  
2110 Otseco Ave.  
Coshocton, Ohio 43812

Dear Doctor Yandam:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) From in or about October 2006 to in or about November 2006, you undertook the care of Patients 1 and 2, as identified on the attached Patient Key, in the course of your obstetrics and gynecology practice (Patient Key confidential and to be withheld from public disclosure).
  - (a) You failed to perform and/or document performing an appropriate history and physical of Patient 1 as part of her prenatal care.
  - (b) You failed to inform and/or document informing Patient 1 that she was a high-risk pregnancy.
  - (c) You inappropriately administered Oxytocin to Patient 1, and furthermore, failed to document your reasons for administering Oxytocin to Patient 1 outside an appropriate clinical setting.
  - (d) You failed to deliver Patient 2, the infant of Patient 1, in a hospital despite Patient 1 having a high-risk pregnancy.
  - (e) You failed to appropriately document the shoulder dystocia of Patient 2 during Patient 1's labor, and furthermore, failed to appropriately document Patient 1's maternal death.

*Mailed 10-15-09*

- (2) From in or about October 2004 to in or about May 2005, you undertook the care of Patients 3 and 4, as identified on the attached Patient Key, in the course of your obstetrics and gynecology practice (Patient Key confidential and to be withheld from public disclosure).
- (a) You failed to discuss and/or document discussing a smoking cessation counseling program with Patient 3.
  - (b) You failed to promptly perform and/or document promptly performing an appropriate physical exam on Patient 3 upon her admission to Coshocton County Memorial Hospital [CCMH] with ruptured membranes.
  - (c) You failed to appropriately initiate transfer of Patient 3's care from CCMH, a Level 1 Perinatal Center, to a Level 3 Perinatal Center, despite Patient 3 presenting with ruptured membranes at 34 weeks gestation.
  - (d) You inappropriately administered Bethine to Patient 3, and furthermore, failed to appropriately document the use of this medication.
  - (e) You failed to appropriately administer antibiotics to Patient 3.
  - (f) Your management of Patients 3 and 4, including but not limited to, your failure to have Patient 3 transferred to a Level 3 Perinatal Center, led to Patient 4, the infant of Patient 3, to suffer newborn sepsis, encephalopathy and cerebral palsy.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) and (2) above, individually and/or collectively, constitute “[f]ailure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease,” as those clauses are used in Section 4731.22(B)(2), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) and (2) above, individually and/or collectively, constitute “[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established,” as that clause is used in Section 4731.22(B)(6), 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 days of the time of mailing of this notice.

You are further advised that, if you timely request a hearing, 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 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, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an individual’s certificate to practice, refuses to register an applicant, or refuses to reinstate an individual’s certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.  
Secretary

LAT/DSZ/flb

Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3070 4237  
RETURN RECEIPT REQUESTED

cc: Robert B. Graziano, Esq.  
Roetzel & Andress, LPA  
155 East Broad Street  
National City Plaza, 12<sup>th</sup> Floor  
Columbus, Ohio 43215

CERTIFIED MAIL #91 7108 2133 3936 3070 4220  
RETURN RECEIPT REQUESTED