

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

May 8, 2013

Brian D. Heim, M.D.
2901 Ironwood Drive
Akron, OH 44312-5812

RE: 13-CRF-008

Dear Dr. Heim:

Please find enclosed a certified copy of the Findings, Order and Journal Entry approved and confirmed by the State Medical Board meeting in regular session on May 8, 2013.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal must be taken to the Franklin County Court of Common Pleas.

Such an appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board and the Franklin County Court of Common Pleas. The Notice of Appeal must set forth the Order appealed from and state that the State Medical Board's Order is not supported by reliable, probative, and substantive evidence and is not in accordance with law. The Notice of Appeal may, but is not required to, set forth the specific grounds of the appeal. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

Very truly yours,



J. Craig Stafford, M.D., M.P.H.
Secretary

JCS:baj
Enclosures

CERTIFIED MAIL NO. 91 7199 9991 7032 2902 6782
RETURN RECEIPT REQUESTED

Mailed 5-9-13

CERTIFICATION

I hereby certify that the attached copy of the Findings, Order and Journal Entry approved by the State Medical Board, meeting in regular session on May 8, 2013, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of Brian D. Heim, M.D., Case Number 13-CRF-008, as it appears in the Journal of the State Medical Board of Ohio.

This Certification is made by the authority of the State Medical Board of Ohio in its behalf.



J. Craig Strafford, M.D., M.P.H.
Secretary

(SEAL)

May 8, 2013

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

CASE NO. 13-CRF-008

BRIAN D. HEIM, M.D.

*

FINDINGS, ORDER AND JOURNAL ENTRY

By letter dated February 13, 2013, notice was given to Brian D. Heim, M.D., that the State Medical Board intended to consider disciplinary action regarding his license to practice medicine and surgery in the State of Ohio, and that he was entitled to a hearing if such hearing was requested within thirty (30) days of the mailing of said notice. In accordance with Section 119.07, Ohio Revised Code, said notice was sent via certified mail, return receipt requested, to the address of record of Dr. Heim, that being 2901 Ironwood Drive, Akron, Ohio 44312-5812.

Subsequently, the notice was returned to the Board with a notation from the United States Postal Service that delivery was attempted on February 16, 2013; however, the notice was unclaimed. In accordance with Section 119.07, Ohio Revised Code, the notice was mailed via regular U.S. mail on February 21, 2013, and a certificate of mailing was obtained. No hearing request has been received from Dr. Heim and more than thirty (30) days have now elapsed since the mailing of the notice on February 21, 2013.

WHEREFORE, having reviewed the February 13, 2013, Notice of Opportunity for Hearing, the affidavit of Kay L. Rieve, Administrative Officer, the affidavit of Barbara A. Jacobs, Senior Executive Staff Attorney, and the affidavit of Cheryl D. Pokorny, Enforcement Attorney, which are attached hereto and incorporated herein, the Board hereby finds that:

1. On or about November 28, 2012, in the Court of Common Pleas for Summit County, Ohio, Brian D. Heim, M.D., pled guilty to and was convicted on one amended count of Obstructing Official Business, a misdemeanor of the first degree.
2. As part of his criminal sentence, Dr. Heim was ordered to surrender his Drug Enforcement Administration Certificate of Registration and his Ohio Board of Pharmacy license.
3. On or about December 7, 2012, Dr. Heim voluntarily surrendered his Drug Enforcement Administration Certificate to Prescribe and consented to revocation of the same.

4. On or about February 13, 2013, the Board issued a Notice of Opportunity for Hearing to Dr. Heim. Such Notice was mailed via certified mail, return receipt requested, to Dr. Heim's address of record on February 14, 2013.
5. Subsequently, on February 21, 2013, the Board received the notice in return mail with a notation from the United States Postal Service that delivery was attempted on February 16, 2013; however, the notice was unclaimed.
6. Pursuant to Section 119.07, the Board sent the notice via regular U.S. mail to Dr. Heim on February 21, 2013, and a certificate of mailing was obtained. The notice was not returned to the Board.
7. Further, pursuant to Section 119.07, Ohio Revised Code, Dr. Heim had thirty days from the date of mailing of the Notice of Opportunity for Hearing in which to submit a written hearing request to the Board.
8. The thirtieth and final day upon which Dr. Heim could submit a hearing request to the Board was Monday, March 25, 2013.
9. No hearing request has been received from Dr. Heim and more than thirty days have elapsed since the mailing of the Notice of Opportunity for Hearing via regular U.S. mail.

Further, the Board hereby concludes that:

1. Section 4731.22(B)(11), Ohio Revised Code, authorizes the State Medical Board of Ohio to refuse to issue a license or to discipline a licensee following a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice.
2. Section 4731.22(B)(13), Ohio Revised Code, authorizes the State Medical Board of Ohio to refuse to issue a license or to discipline a licensee following a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude.
3. Section 4731.22(B)(24), Ohio Revised Code, authorizes the State Medical Board of Ohio to refuse to issue a license or to discipline a licensee following the revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States Department of Defense or Department of Veterans Affairs or the termination or suspension of a certificate of registration to prescribe drugs by the Drug Enforcement Administration of the United States Department of Justice.

4. Dr. Heim has been convicted on one amended count of Obstructing Official Business, a misdemeanor of the first degree, as described above.
5. Dr. Heim has voluntarily surrendered his Drug Enforcement Administration Certificate to Prescribe and consented to revocation of the same, as described above.
6. Section 119.07, Ohio Revised Code, requires the State Medical Board of Ohio to grant an administrative hearing if such hearing is requested within thirty days of the mailing of the Notice of Opportunity for Hearing.
7. Section 4731.22(J), Ohio Revised Code, authorizes the State Medical Board of Ohio to enter a final order that contains the Board's findings without an administrative hearing if the individual subject to a Notice of Opportunity for Hearing does not timely request a hearing in accordance with Section 119.07.
8. As stated above, Dr. Heim failed to timely submit a request for hearing prior to the thirtieth day from the mailing of the Notice of Opportunity for Hearing via regular U.S. mail on February 21, 2013.

Accordingly, the Board hereby ORDERS that:

The certificate of Brian D. Heim, M.D., to practice medicine and surgery in the State of Ohio be REVOKED.

This Order shall become effective IMMEDIATELY.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 8th day of May 2013 and the original thereof shall be kept with said Journal.

(SEAL)



J. Craig Strafford, M.D., M.P.H.
Secretary

May 8, 2013
Date

AFFIDAVIT

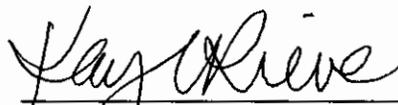
The State of Ohio
Franklin County, SS

I, Kay L. Rieve, being duly cautioned and sworn, do hereby depose and state that the following is true based upon my first-hand knowledge:

- 1) I am employed by the State Medical Board of Ohio (hereinafter, "The Board")
- 2) I serve the Board in the position of Administrative Officer.
- 3) In such position I am the responsible custodian of all public licensee records maintained by the Board pertaining to individuals who have received certificates issued pursuant to Chapter 4731., Ohio Revised Code;
- 4) I have this day carefully examined the records of the Board pertaining to Brian D. Heim, M.D.
- 5) Based on my examination, I have found the address of record of Dr. Heim to be:

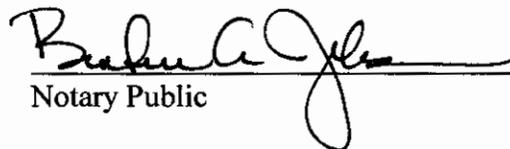
2901 Ironwood Drive
Akron, Ohio 44312-5812

- 6) Further, Affiant Sayeth Naught.



Kay L. Rieve
Administrative Officer

Sworn to and signed before me, Barbara A. Jacobs, Notary
Public, this 15th day of April, 2013.



Notary Public

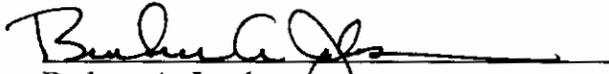
BARBARA ANN JACOBS, ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date.
Section 347.03 R.C.

AFFIDAVIT

The State of Ohio
Franklin County, SS

I, Barbara A. Jacobs, being duly cautioned and sworn, do hereby depose and state that the following is true based upon my first-hand knowledge:

- 1) I am employed by the State Medical Board of Ohio (hereinafter, "The Board").
- 2) I serve the Board in the position of Senior Executive Staff Attorney.
- 3) In the course of my regular duties, I am responsible for seeing that all procedural requirements of Chapter 119., Ohio Revised Code, regarding service of any notice issued by the Board are met.
- 4) According to the Board's records, the Board issued a Notice of Opportunity for Hearing to Brian D. Heim, M.D., on February 13, 2013. Such notice was mailed by certified mail, return receipt requested, to Dr. Heim's address of record.
- 5) Subsequently, on February 21, 2013, the Board received the notice sent in return mail with a notation from the United States Postal Service that delivery was attempted on February 16, 2013; however, the item was unclaimed.
- 6) In accordance with Section 119.07, Ohio Revised Code, the Notice was mailed by regular U.S. Mail to Dr. Heim's address of record on February 21, 2013, and a certificate of mailing was obtained. The mailing has not been returned to the Board offices.
- 7) The thirtieth and final day upon which Dr. Heim could submit a written hearing request was Monday, March 25, 2013.
- 8) As of the date of this affidavit, the Board has not received a request for hearing from Dr. Heim.
- 9) Further, Affiant Sayeth Naught.


Barbara A. Jacobs
Senior Executive Staff Attorney

Sworn to and signed before me, Daniel S. Zinsmaster, Notary Public, this 15th
day of April, 2013.



DANIEL S. ZINSMASER, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.


Notary Public

State Medical Board of Ohio

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

(614) 466-3934
med.ohio.gov

February 13, 2013

Case number: 13-CRF-008

Brian D. Heim, M.D.
2901 Ironwood Drive
Akron, Ohio 44312

Dear Doctor Heim:

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) On or about November 28, 2012, in the Court of Common Pleas for Summit County, Ohio, you pled guilty to an amended charge of Obstructing Official Business, a misdemeanor of the first degree. Your plea was accepted by the Court and you were found guilty of the offense. On or about December 17, 2012, you were sentenced to five months of imprisonment, all of which were suspended. You were placed on non-reporting probation for one year, and you were ordered to surrender your DEA license and your Ohio Board of Pharmacy license.
- (2) On or about December 7, 2012, you voluntarily surrendered your Drug Enforcement Administration Certificate of Registration [DEA License]. In that same document, you consented to the revocation of your DEA License by the DEA Administrator.

Your plea of guilty or the judicial finding of guilt as alleged in paragraph (1) above constitutes "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice," as that clause is used in Section 4731.22(B)(11), Ohio Revised Code.

Further, your plea of guilty or the judicial finding of guilt as alleged in paragraph (1) above constitutes "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding

*Certificate of Mailing 2-21-13
mailed 2-14-13*

Brian D. Heim, M.D.

Page 2

of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude," as that clause is used in Section 4731.22(B)(13), Ohio Revised Code.

Additionally, your acts, conduct, and/or omissions as alleged in paragraph (2) above constitute "[t]he revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice," as that clause is used in Section 4731.22(B)(24), 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,



J. Craig Stafford, M.D., M.P.H.
Secretary

Brian D. Heim, M.D.
Page 3

JCS/CDP/pev
Enclosures

CERTIFIED MAIL #91 7199 9991 7031 2767 9806
RETURN RECEIPT REQUESTED

CC: Michael J. Maillis
Perantinides & Nolan Co., L.P.A.
300 Courtyard Square
80 South Summit Street
Akron, Ohio 44308-1736

CERTIFIED MAIL #91 7199 9991 7031 2767 9813
RETURN RECEIPT REQUESTED

State Medical Board Of Ohio
30 E. Broad St.
3rd Floor
Columbus, OH 43215-6127

CERTIFIED MAIL



91 7199 9991 7031 2767 9806

UNITED STATES POSTAGE
FIRST CLASS
\$05.67
0002002005 FEB 14 2013
MAILED FROM ZIP CODE 43215



POST RETURNED TO SENDER
UNCLAIMED

MEDICAL BOARD
FEB 21 2013

Handwritten signature in a circle

Brian D. Heim, M.D.
2901-Ironwood Drive
Akron, Ohio 44312

UNCLAIMED



44312 HEIM CITE CDP

Signature Required



Certificate of Mailing

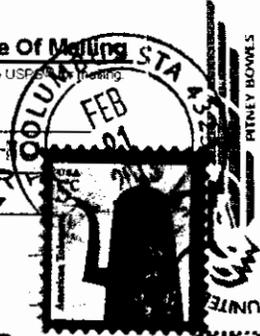
This Certificate of Mailing provides evidence that mail has been presented to USPS for mailing. This form may be used for domestic and international mail.

From:

STATE MEDICAL BOARD OF OH
30 E. BROAD ST., 3RD FLOOR
COLUMBUS, OH 43215-6127

To:

Brian D. Heim, M.D.
2901 Ironwood Drive
Akron, OH 44312



RETNEY BOWLES
\$01.15⁰
02 1R
0002002305 FEB 21 2013
MAILED FROM ZIP CODE 43215

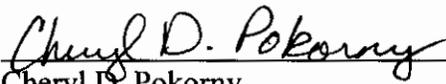


AFFIDAVIT

The State of Ohio
Franklin County, SS

I, Cheryl D. Pokorny, being duly cautioned and sworn, do hereby depose and state that the following is true based upon my first-hand knowledge:

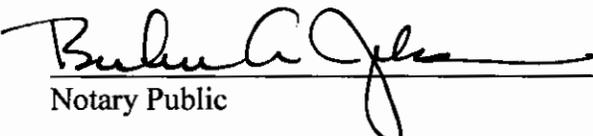
- 1) I am employed by the State Medical Board of Ohio (hereinafter, "Board").
- 2) I serve the Board in the position of Enforcement Attorney.
- 3) In the course of my regular duties, I am responsible for coordinating the investigation of complaints against applicants and licensees under the jurisdiction of the Board and assembling the evidence necessary to prove potential violations of the Medical Practices Act of Ohio, Chapters 4730., 4731., 4760., and 4762., Ohio Revised Code.
- 4) I coordinated the investigation of the complaints filed against Brian D. Heim, M.D., which resulted in the issuance of a Notice of Opportunity for Hearing by the Board on February 13, 2013.
- 5) As part of the Board's investigation of Dr. Heim, I obtained certified copies of the Indictment and Journal Entries in Case No. 2012-05-1313 in the matter of the State of Ohio vs. Brian D. Heim. Attached hereto and incorporated herein as Exhibit 1 are certified copies of the Indictment and Journal Entries.
- 6) Further, as part of the Board's investigation of Dr. Heim, I obtained a certified copy of the Voluntary Surrender of Controlled Substances Privileges executed by Dr. Heim on or about December 7, 2012. Attached hereto and incorporated herein as Exhibit 2 is a certified copy of the Voluntary Surrender of Controlled Substances Privileges.
- 7) Further, Affiant Sayeth Naught.



Cheryl D. Pokorny
Enforcement Attorney

Sworn to and signed before me, _____ Barbara A. Jacobs _____, Notary
Public, this 15th day of April, 2013.

BARBARA ANN JACOBS, ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date.
Section 147:03 R.C.



Notary Public

COPY

DANIEL M. HERRIGAN

2012 MAY 18 PM 3:10

IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO
SUMMIT COUNTY
CLERK OF COURTS

INDICTMENT TYPE: DIRECT

CASE NO. 2012-05-1313 ²

INDICTMENT FOR: AGGRAVATED TRAFFICKING IN DRUGS (3) 2925.03(A)(C)(1) F3;
AGGRAVATED TRAFFICKING IN DRUGS (5) 2925.03(A)(C)(1) F4; TAMPERING WITH
EVIDENCE (1) 2921.12(A)(1) F3

In the Common Pleas Court of Summit County, Ohio, of the term of MAY in the year of our Lord, Two Thousand and Twelve,

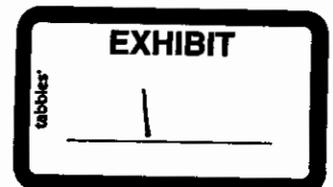
The Jurors of the Grand Jury of the State of Ohio, within and for the body of the County aforesaid, being duly impaneled and sworn and charged to inquire of and present all offenses whatever committed within the limits of said County, on their oaths, IN THE NAME AND BY THE AUTHORITY OF THE STATE OF OHIO,

COUNT ONE

DO FIND AND PRESENT That **BRIAN D. HEIM** on or about the 19th day of June, 2007, in the County of Summit and State of Ohio, aforesaid, did commit the crime of **AGGRAVATED TRAFFICKING IN DRUGS** in that he did knowingly sell or offer to sell a drug, dextro-amphetamine (adderall xr) a schedule II controlled substance, in violation of Section 2925.03(A)(C)(1) of the Ohio Revised Code, A FELONY OF THE FOURTH DEGREE, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio.

COUNT TWO

And the Grand Jurors of the State of Ohio, within and for the body of the County of Summit aforesaid, on their oaths in the name and by the authority of the State of Ohio, DO FURTHER FIND AND PRESENT, that **BRIAN D. HEIM**, on or about the 15th day of January, 2009, in the County of Summit and State of Ohio, aforesaid, did commit the crime of **AGGRAVATED TRAFFICKING IN DRUGS** in that he did knowingly sell or offer to sell a drug, dextro-amphetamine (adderall xr) a schedule II controlled substance, in violation of Section 2925.03(A)(C)(1) of the Ohio Revised Code, A FELONY OF THE FOURTH DEGREE, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio.



COUNT THREE

And the Grand Jurors of the State of Ohio, within and for the body of the County of Summit aforesaid, on their oaths in the name and by the authority of the State of Ohio, DO FURTHER FIND AND PRESENT, that **BRIAN D. HEIM**, on or about the 14th day of September, 2007, in the County of Summit and State of Ohio, aforesaid, did commit the crime of **AGGRAVATED TRAFFICKING IN DRUGS** in that he did knowingly sell or offer to sell a drug, dextro-amphetamine (adderall xr) a schedule II controlled substance, in violation of Section 2925.03(A)(C)(1) of the Ohio Revised Code, A FELONY OF THE FOURTH DEGREE, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio.

COUNT FOUR

And the Grand Jurors of the State of Ohio, within and for the body of the County of Summit aforesaid, on their oaths in the name and by the authority of the State of Ohio, DO FURTHER FIND AND PRESENT, that **BRIAN D. HEIM**, on or about the 24th day of March, 2008, in the County of Summit and State of Ohio, aforesaid, did commit the crime of **AGGRAVATED TRAFFICKING IN DRUGS** in that he did knowingly sell or offer to sell a drug, dextro-amphetamine (adderall xr) a schedule II controlled substance, in violation of Section 2925.03(A)(C)(1) of the Ohio Revised Code, A FELONY OF THE FOURTH DEGREE, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio.

COUNT FIVE

And the Grand Jurors of the State of Ohio, within and for the body of the County of Summit aforesaid, on their oaths in the name and by the authority of the State of Ohio, DO FURTHER FIND AND PRESENT, that **BRIAN D. HEIM**, on or about the 20th day of August, 2007, in the County of Summit and State of Ohio, aforesaid, did commit the crime of **AGGRAVATED TRAFFICKING IN DRUGS** in that he did knowingly sell or offer to sell a drug, dextro-amphetamine (adderall xr) a schedule II controlled substance, in violation of Section 2925.03(A)(C)(1) of the Ohio Revised Code, A FELONY OF THE FOURTH DEGREE, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio.

2012-05-1313
Page Three of Four

COUNT SIX

And the Grand Jurors of the State of Ohio, within and for the body of the County of Summit aforesaid, on their oaths in the name and by the authority of the State of Ohio, DO FURTHER FIND AND PRESENT, that **BRIAN D. HEIM**, on or about the 20th day of April, 2007, in the County of Summit and State of Ohio, aforesaid, did commit the crime of **AGGRAVATED TRAFFICKING IN DRUGS** in that he did knowingly sell or offer to sell a drug, dextro-amphetamine (adderall xr) a schedule II controlled substance, in an amount that equals or exceeds one but is less than five times the bulk amount, in violation of Section 2925.03(A)(C)(1) of the Ohio Revised Code, A FELONY OF THE THIRD DEGREE, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio.

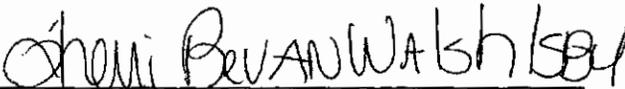
COUNT SEVEN

And the Grand Jurors of the State of Ohio, within and for the body of the County of Summit aforesaid, on their oaths in the name and by the authority of the State of Ohio, DO FURTHER FIND AND PRESENT, that **BRIAN D. HEIM**, on or about the 22nd day of May, 2008, in the County of Summit and State of Ohio, aforesaid, did commit the crime of **AGGRAVATED TRAFFICKING IN DRUGS** in that he did knowingly sell or offer to sell a drug, dextro-amphetamine (adderall xr) a schedule II controlled substance, in an amount that equals or exceeds one but is less than five times the bulk amount, in violation of Section 2925.03(A)(C)(1) of the Ohio Revised Code, A FELONY OF THE THIRD DEGREE, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio.

2012-05-1313
Page Four of Four

COUNT NINE

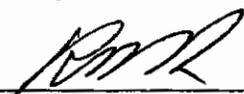
And the Grand Jurors of the State of Ohio, within and for the body of the County of Summit aforesaid, on their oaths in the name and by the authority of the State of Ohio, DO FURTHER FIND AND PRESENT, that **BRIAN D. HEIM**, on or about the 24th day of March, 2010 through the 13th day of September, 2011, in the County of Summit and State of Ohio, aforesaid, did commit the crime of **TAMPERING WITH EVIDENCE** in that he did, knowing that an official proceeding or investigation is in progress or is about to be or likely to be instituted alter, destroy, conceal or remove any record, document, or thing, with purpose to impair its value or availability as evidence in such proceeding or investigation in violation of section 2921.12(A)(1) of the Ohio Revised Code, A FELONY OF THE THIRD DEGREE, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio.


SHERRI BEVAN WALSH, Prosecutor/cls
County of Summit, Ohio

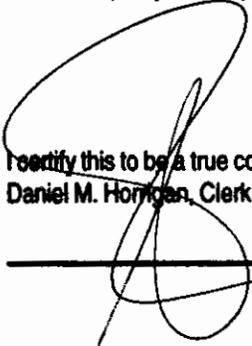
Prosecutor, County of Summit, by

s/ 

DATE: 5-16-12


Grand Jury Foreperson/Deputy Foreperson

A TRUE BILL


I certify this to be a true copy of the original
Daniel M. Horigan, Clerk of Courts.
Deputy

COPY

DANIEL M. HOPKINSON
**IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT**

2012 DEC 20 AM 10:23

THE STATE OF OHIO

vs.

BRIAN D. HEIM

SUMMIT COUNTY
CLERK OF COURTS
)
)

Case No. CR 12 05 1313 31

JOURNAL ENTRY

On December 17, 2012, the Prosecuting Attorney, ELLIOT KOLKOVICH, on behalf of the State of Ohio, and the Defendant, BRIAN D. HEIM, represented by counsel, MICHAEL J. MAILLIS, appeared before the Court for sentencing. Heretofore on November 28, 2012, the Defendant pled GUILTY to OBSTRUCTING OFFICIAL BUSINESS, as contained in the amended Count 8 of the Indictment, which offense occurred after July 1, 1996, which plea was accepted by the Court, and the Court found the Defendant guilty of the above offense.

The Court inquired of the Defendant if he had anything to say as to why judgment should not be pronounced against him. The Defendant failed to show good and sufficient cause why judgment should not be pronounced.

IT IS HEREBY ORDERED that the Defendant, BRIAN D. HEIM, serve 5 months in either the Summit County Jail or the Summit County Minimum Security Misdemeanant Facility as determined by the Summit County Sheriff's Office for punishment of the crime of OBSTRUCTING OFFICIAL BUSINESS, Ohio Revised Code Section 2921.31, a misdemeanor of the first (1st) degree.

THEREUPON, IT IS THE ORDER OF THIS COURT that imposition of the above sentence be and the same hereby is SUSPENDED and the Defendant placed on non-reporting probation for a period of 1 year upon the following terms and conditions, to-wit:

1. Report to the Adult Probation Department as directed and abide by the rules and regulations of said Department and/or the Adult Parole authority.
2. Refrain from offensive conduct of every nature and obey all laws.
3. Pay a \$20.00 per month fee for services rendered by the Adult Probation Department; said monies to be paid to the Summit County Clerk of Courts, Courthouse, 205 South High Street, Akron, Ohio 44308-1662. The Clerk of Courts shall collect such fees and deposit the monies into the Summit County Probation Services Fund established in the County Treasury.
4. Provide a DNA sample pursuant to Sections 2901.07 and 2152.74 of the Ohio Revised Code.
5. Must surrender his DEA license and his Ohio Board of Pharmacy license.
6. Pay the costs of this prosecution as directed by the Adult Probation Department.

COPY

2

IT IS FURTHER ORDERED that the Summit County Clerk of Courts shall collect monies from the Defendant in the following order of priority: (1) costs and Adult Probation Department fees; (2) restitution, if applicable; and (3) fines, if applicable.

Court costs and probation fee payments, as well as any other financial sanction ordered by the Court, shall be monitored by the Adult Probation Department, who shall report the status of payments directly to the Court.

The Court's order of court costs and probation fee payments, as well as any other financial sanction ordered herein, is based upon the Defendant's present and future ability to pay; and **judgment is granted against the Defendant in favor of the County of Summit for the court costs and probation fees.** Said monies to be paid to the Summit County Clerk of Courts, Courthouse, 205 South High Street, Akron, Ohio 44308-1662.

SAID NON-REPORTING PROBATION TO COMMENCE DECEMBER 17, 2012.

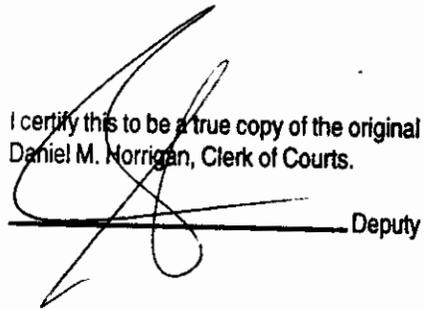
APPROVED:
December 18, 2012
pmw



THOMAS A. TEODOSIO, Judge
Court of Common Pleas
Summit County, Ohio

cc: Prosecutor Elliot Kolkovich
Attorney Michael J. Maillis
Criminal Assignment
Adult Probation Department

I certify this to be a true copy of the original
Daniel M. Morrigan, Clerk of Courts.



Deputy

COPY

**IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT**

THE STATE OF OHIO

vs.

BRIAN D. HEIM

DANIEL M. HERRIGAN

2012 NOV 30 PM 1:51

SUMMIT COUNTY
CLERK OF COURTS

Case No. CR 12 05 1313

JOURNAL ENTRY

On November 28, 2012, the Prosecuting Attorney, ELLIOT KOLKOVICH, on behalf of the State of Ohio, and the Defendant, BRIAN D. HEIM, represented by counsel, MICHAEL MAILLIS, appeared before the Court. The Defendant was fully advised of his Constitutional rights and his rights as required under Rule 11 of the Ohio Rules of Criminal Procedure.

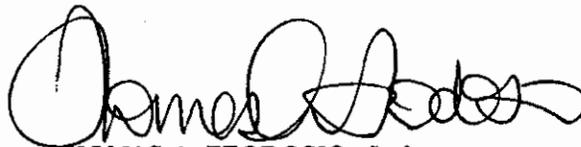
IT IS HEREBY ORDERED that, upon Motion of the State of Ohio, Count 8 of the Indictment is amended to the lesser and included offense of OBSTRUCTING OFFICIAL BUSINESS, a misdemeanor of the first (1st) degree. The Defendant, through counsel, agreed to the amendment and waived all defects in the time, manner, or method of service of the amendment.

By plea agreement, the Defendant retracted his plea of Not Guilty and pled GUILTY to OBSTRUCTING OFFICIAL BUSINESS, as contained in the amended Count 8 of the Indictment, Ohio Revised Code Section 2921.31, a misdemeanor of the first (1st) degree, which offense occurred after July 1, 1996. The Defendant's plea, voluntarily made and with a full understanding of the consequences, is accepted by the Court, and the Court finds the Defendant guilty of the above offense.

IT IS FURTHER ORDERED that the charges of AGGRAVATED TRAFFICKING IN DRUGS, as contained in Counts 1, 2, 3, 4, 5, 6, and 7 of the Indictment, herein are DISMISSED.

IT IS FURTHER ORDERED that sentencing in this case is set for December 17, 2012 at 1:00 P.M.

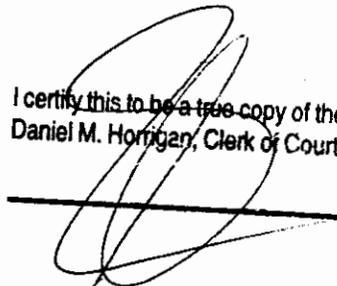
APPROVED:
November 28, 2012
pmw



THOMAS A. TEODOSIO, Judge
Court of Common Pleas
Summit County, Ohio

cc: Prosecutor Elliot Kolkovich
Attorney Michael Maillis
(Court Reporter, Maxine Roberts)

I certify this to be a true copy of the original
Daniel M. Herrigan, Clerk of Courts.

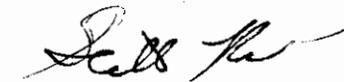


Deputy

JAN 07 2013

CERTIFICATION OF COPIES OF OFFICIAL RECORDS

The undersigned, Scott A. Brinks, states that he has the job title of Diversion Investigator, and that as such, he certifies that the accompanying copy of the official record concerning Brian D. Heim, MD., represents a complete, accurate, and true copy of the original document maintained in the normal and usual course of business by the Drug Enforcement Administration.



Signature of Affiant

12/12/12

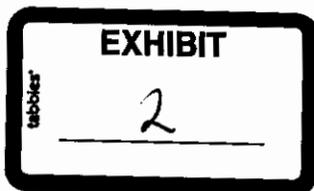
Date

Sworn to before me and subscribed in my presence this 12 day of December, 2012 at Madison (city, town, or village) in the County of Madison, in the State of Ohio.



Notary Signature

DAVID M. SMITH
Notary Public, State of Ohio
My Commission Expires 03-21-2013



JAN 07 2013

U. S. Department of Justice - Drug Enforcement Administration

VOLUNTARY SURRENDER OF CONTROLLED
SUBSTANCES PRIVILEGES

DEA USE ONLY

File No. _____

After being fully advised of my rights, and understanding that I am not required to surrender my controlled substances privileges, I freely execute this document and choose to take the actions described herein.

In view of my alleged failure to comply with the Federal requirements pertaining to controlled substances, and as an indication of my good faith in desiring to remedy any incorrect or unlawful practices on my part;

In view of my desire to terminate handling of controlled substances listed in schedule(s) II-V;

I hereby voluntarily surrender my Drug Enforcement Administration Certificate of Registration, unused order forms, and all my controlled substances listed in schedule(s) II-V as evidence of my agreement to relinquish my privilege to handle controlled substances listed in schedule(s) II-V. Further, I agree and consent that this document shall be authority for the Administrator of the Drug Enforcement Administration to terminate and revoke my registration without an order to show cause, a hearing, or any other proceedings, (and if not all controlled substances privileges are surrendered, be issued a new registration certificate limited to schedule(s) N/A).

I waive refund of any payments made by me in connection with my registration.

I understand that I will not be permitted to order, manufacture, distribute, possess, dispense, administer, prescribe, or engage in any other controlled substance activities whatever, until such time as I am again properly registered.

NAME OF REGISTRANT (Print)		ADDRESS OF REGISTRANT	
Dr Brian Heim MD		3562 Ridge Park Drive Suite A Akron, Ohio 44333	
DEA REGISTRATION NO. BH7542283			
SIGNATURE OF REGISTRANT OR AUTHORIZED INDIVIDUAL		DATE	
Brian Heim MD		12-7-12	

WITNESSES:

NAME AND DATE		TITLE	
Michael J. Maullit		Attorney	
Seth Bank		DR	

PRIVACY ACT

AUTHORITY: Section 301 of the Controlled Substances Act of 1970 (PL 91-513).

PURPOSE: Permit voluntary surrender of controlled substances.

ROUTINE USES: The Controlled Substances Act Registration Records produces special reports as required for statistical analytical purposes. Disclosures of information from this system are made to the following categories of users for the purposes stated:

- A. Other Federal law enforcement and regulatory agencies for law enforcement and regulatory purposes.
- B. State and local law enforcement and regulatory agencies for law enforcement and regulatory purposes.
- C. Persons registered under the Controlled Substances Act (Public Law 91-513) for the purpose of verifying the registration of customers and practitioners.

EFFECT: Failure to provide the information will have no effect on the individual.

State Medical Board of Ohio

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

(614) 466-3934
med.ohio.gov

February 13, 2013

Case number: 13-CRF-008

Brian D. Heim, M.D.
2901 Ironwood Drive
Akron, Ohio 44312

Dear Doctor Heim:

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) On or about November 28, 2012, in the Court of Common Pleas for Summit County, Ohio, you pled guilty to an amended charge of Obstructing Official Business, a misdemeanor of the first degree. Your plea was accepted by the Court and you were found guilty of the offense. On or about December 17, 2012, you were sentenced to five months of imprisonment, all of which were suspended. You were placed on non-reporting probation for one year, and you were ordered to surrender your DEA license and your Ohio Board of Pharmacy license.
- (2) On or about December 7, 2012, you voluntarily surrendered your Drug Enforcement Administration Certificate of Registration [DEA License]. In that same document, you consented to the revocation of your DEA License by the DEA Administrator.

Your plea of guilty or the judicial finding of guilt as alleged in paragraph (1) above constitutes “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice,” as that clause is used in Section 4731.22(B)(11), Ohio Revised Code.

Further, your plea of guilty or the judicial finding of guilt as alleged in paragraph (1) above constitutes “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding

mailed 2-14-13

of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude,” as that clause is used in Section 4731.22(B)(13), Ohio Revised Code.

Additionally, your acts, conduct, and/or omissions as alleged in paragraph (2) above constitute “[t]he revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice,” as that clause is used in Section 4731.22(B)(24), 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,



J. Craig Strafford, M.D., M.P.H.
Secretary

Brian D. Heim, M.D.

Page 3

JCS/CDP/pev
Enclosures

CERTIFIED MAIL #91 7199 9991 7031 2767 9806
RETURN RECEIPT REQUESTED

CC: Michael J. Maillis
Perantinides & Nolan Co., L.P.A.
300 Courtyard Square
80 South Summit Street
Akron, Ohio 44308-1736

CERTIFIED MAIL #91 7199 9991 7031 2767 9813
RETURN RECEIPT REQUESTED

**CONSENT AGREEMENT
BETWEEN
BRIAN DAVID HEIM, M.D., AND
THE STATE MEDICAL BOARD OF OHIO**

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

BRIAN DAVID HEIM, M.D., voluntarily 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 contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this CONSENT AGREEMENT.

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), 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 any of the enumerated violations.
- B. THE STATE MEDICAL BOARD OF OHIO enters into this CONSENT AGREEMENT in lieu of further formal proceedings based upon the violations of Section 4731.22, Ohio Revised Code set forth in the Notice of Immediate Suspension and Opportunity for Hearing dated July 8, 1998, attached hereto as Exhibit A and incorporated herein by this reference. The BOARD expressly reserves the right to institute additional formal proceedings based upon any other violations of Chapter 4731 of the Ohio Revised Code whether occurring before or after the effective date of this AGREEMENT.
- C. BRIAN DAVID HEIM, M.D., is licensed to practice medicine and surgery in the State of Ohio, which license was suspended on or about July 8, 1998 pursuant to R.C. 3719.121(C), as set forth in Exhibit A, attached hereto.

- D. BRIAN DAVID HEIM, M.D., ADMITS the factual and legal allegations set forth in the Notice of Immediate Suspension and Opportunity for Hearing issued by the BOARD on July 8, 1998, Exhibit A attached hereto.

BRIAN DAVID HEIM, M.D., further ADMITS that his ability to practice according to acceptable and prevailing standards of care is impaired by his excessive or habitual use of drugs or alcohol, as that term is defined in Ohio Adm. Code 4731-16-01(A).

AGREED CONDITIONS

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

STAYED REVOCATION; SUSPENSION OF CERTIFICATE

- I. The suspension of BRIAN DAVID HEIM, M.D.'s certificate to practice medicine and surgery in the State of Ohio pursuant to R.C. 3719.121(C) is terminated upon the effective date of this CONSENT AGREEMENT. Further, the certificate of BRIAN DAVID HEIM, M.D., to practice medicine and surgery in the State of Ohio is hereby PERMANENTLY REVOKED. Such revocation is stayed, and DOCTOR HEIM'S certificate shall be SUSPENDED for an indefinite period of time, but not less than one (1) year. Such suspension shall become effective immediately upon the effective date of this CONSENT AGREEMENT. During the period of suspension, DOCTOR HEIM shall comply with the following terms, conditions and limitations:

Sobriety

- A. DOCTOR HEIM 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 HEIM's history of chemical dependency.

BRIAN DAVID HEIM, M.D.

Consent Agreement

Page -3-

- B. DOCTOR HEIM shall abstain completely from the use of alcohol.

Releases; Quarterly Declarations and Appearances

- C. DOCTOR HEIM shall provide continued 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 HEIM'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 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 HEIM 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.
- D. DOCTOR HEIM 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. The first quarterly declaration must be received in the BOARD's offices on the first day of the third month following the month in which this CONSENT AGREEMENT becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the BOARD's offices on the first day of the fourth month following. Subsequently quarterly declarations must be received in the BOARD's offices on or before the first day of every third month.
- E. DOCTOR HEIM 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 HEIM written notification of scheduled appearances, it is DOCTOR HEIM'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 HEIM shall immediately submit to the BOARD a written request to be notified of his next scheduled appearance.

Drug & Alcohol Screens; Supervising Physician

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

Rehabilitation Program

- G. DOCTOR HEIM shall undertake and maintain participation in a drug and alcohol rehabilitation program, such as AA, NA or Caduceus, or another program approved in advance by the BOARD specifically for DOCTOR HEIM, at least three (3) times per week, or as otherwise directed by the BOARD. Substitution of any specific program must receive prior BOARD approval.

DOCTOR HEIM shall submit acceptable documentary evidence of continuing compliance with this program with each quarterly declaration.

AFTERCARE

- II. DOCTOR HEIM shall contact an appropriate impaired physicians committee, approved by the BOARD, to arrange for assistance in recovery or aftercare.
- III. DOCTOR HEIM shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided, that where terms of the aftercare contract conflict with terms of this AGREEMENT, the terms of this AGREEMENT shall control.

CONDITIONS FOR REINSTATEMENT

- IV. The BOARD shall not consider reinstatement of DOCTOR HEIM's certificate to practice medicine and surgery unless and until all of the following conditions are met:
 - A. DOCTOR HEIM shall submit an application for reinstatement, accompanied by appropriate fees. Such application shall not be submitted for a minimum period of nine (9) months from the effective date of this AGREEMENT.
 - B. DOCTOR HEIM 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 provider approved under Section 4731.25 of the Revised Code that DOCTOR HEIM has successfully completed any required inpatient treatment;
 - ii. Evidence of continuing full compliance with an aftercare contract or consent agreement;
 - iii. Two written reports indicating that DOCTOR HEIM's present ability to practice (that is, as of the time that the application for reinstatement is filed) has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers

approved by the BOARD for making such assessments and shall describe the basis for this determination.

- C. In the event that DOCTOR HEIM has not been engaged in the active practice of medicine 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 HEIM's fitness to resume practice.

PROBATIONARY CONDITIONS

- V. Upon reinstatement, DOCTOR HEIM's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a minimum period of five (5) years:
- A. DOCTOR HEIM shall obey all federal, state and local laws, and all rules governing the practice of medicine in Ohio.
- B. DOCTOR HEIM shall continue to 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, in accordance with the same terms and requirements as set forth in paragraph I.D. above.
- C. DOCTOR HEIM shall continue to appear in person for quarterly interviews before the BOARD or its designated representative, or as otherwise directed by the BOARD, in accordance with the same terms and requirements as set forth in paragraph I.E. above.
- D. In the event that DOCTOR HEIM should leave Ohio for three (3) continuous months, or reside or practice outside the State, DOCTOR HEIM 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 the probationary 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.

- E. In the event DOCTOR HEIM is found by the Secretary of the BOARD to have failed to comply with any probationary provision of this agreement, and is so notified of that deficiency in writing, such periods of noncompliance will not apply to the reduction of the probationary period under this CONSENT AGREEMENT.

Drug Associated Restrictions

- F. DOCTOR HEIM shall not prescribe, administer, dispense, order, write orders for, give verbal orders for, or possess (except as allowed under Paragraph H below) any controlled substances as defined by State or Federal law, without prior Board approval.
- G. DOCTOR HEIM shall not be permitted to order, write orders for, give verbal orders for, dispense or administer controlled substances as defined by state or federal law under the Drug Enforcement Administration registration of the hospital or institution in which he is employed, is in training, and/or has privileges, without prior Board approval.

Sobriety

- H. DOCTOR HEIM 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 HEIM's history of chemical dependency.
- I. DOCTOR HEIM shall abstain completely from the use of alcohol.

Drug and Alcohol Screens/Supervising Physician

- J. DOCTOR HEIM shall continue to submit to random urine screenings for drugs and alcohol on a weekly basis as otherwise directed by the BOARD, in accordance with the same terms and

requirements as set forth in paragraph I.F. above.

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

Monitoring Physician

- L. Within thirty (30) days of the effective date of the reinstatement of his certificate pursuant to Paragraph V. above, DOCTOR HEIM shall submit for the BOARD's prior approval the name of a monitoring physician, who shall review DOCTOR HEIM's patient charts and shall submit a written report of such review to the BOARD on a quarterly basis. Such chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the BOARD. It shall be DOCTOR HEIM's responsibility to ensure that the monitoring physician's quarterly reports are submitted to the BOARD on a timely basis.

Further, the monitoring physician shall otherwise monitor DOCTOR HEIM and provide the BOARD with quarterly reports on the doctor's progress and status. DOCTOR HEIM shall ensure that such reports are forwarded to the BOARD on a quarterly basis. In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, DOCTOR HEIM must immediately so notify the BOARD in writing, and make arrangements acceptable to the BOARD for another monitoring physician as soon as practicable. DOCTOR HEIM shall further ensure that the previously designated monitoring physician also notifies the BOARD directly of the inability to continue to serve and the reasons therefore.

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

submitted.

Rehabilitation Program

- M. DOCTOR HEIM shall continue and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or Caduceus, or another program approved in advance by the BOARD, no less than three (3) times per week, in accordance with the same terms and requirements of paragraph I.G. above.

Approval of Employment

- N. DOCTOR HEIM shall obtain the approval of the BOARD for any medical practice or employment related to the health care fields. The BOARD shall consider, among other factors, the adequacy and continuity of supervision and the feasibility of restricted access to controlled substances, which will ensure the protection of the public, prior to approval or disapproval of the proposed employment.

Failure to Comply With Probationary Conditions

- O. DOCTOR HEIM agrees that if any declaration or report required by this AGREEMENT is not received in the BOARD's offices on or before its due date, DOCTOR HEIM shall cease practicing beginning the day next following receipt from the BOARD of notice of non-receipt, either by writing, by telephone, or by personal contact until the declaration or report is received in the BOARD offices. Any practice during this time period shall be considered unlicensed practice in violation of Section 4731.41 of the Revised Code.
- P. DOCTOR HEIM agrees that if, without prior permission from the BOARD, he fails to submit to random screenings for drugs and alcohol at least as frequently as required by Paragraph V.J. of this CONSENT AGREEMENT, he shall cease practicing immediately upon receipt from the BOARD of notice of the violation and shall refrain from practicing for thirty (30) days for the first instance of a single missed screen. Practice during this time period shall be considered unlicensed practice in violation

of Section 4731.41 of the Revised Code.

- Q. DOCTOR HEIM agrees that if he fails to participate in an alcohol and drug rehabilitation program at least as frequently as required by Paragraph V.M. of this CONSENT AGREEMENT, he shall cease practicing immediately upon receipt from the BOARD of notice of the violation and shall refrain from practicing for fifteen (15) days following a first missed meeting. Practice during this time period shall be considered unlicensed practice in violation of Section 4731.41 of the Revised Code.

RELEASES

- VI. DOCTOR HEIM shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment providers to the BOARD, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for them to fulfill their respective duties and obligations.

REQUIRED REPORTING BY LICENSEE

- VII. Within thirty (30) days of the effective date of this AGREEMENT, DOCTOR HEIM 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. Further, DOCTOR HEIM shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he contracts to provide physician services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.
- VIII. Within thirty (30) days of the effective date of this AGREEMENT, DOCTOR HEIM 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 HEIM 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 HEIM shall provide this

BOARD with a copy of the return receipt as proof of notification within thirty (30) days of receiving that return receipt.

FAILURE TO COMPLY

- X. Any violation of paragraphs I.A., I.B., V.H., OR V.K. of this AGREEMENT shall constitute grounds to permanently revoke DOCTOR HEIM's certificate. DOCTOR HEIM agrees that the minimum discipline for such a violation shall include actual license suspension. This paragraph does not limit the Board's authority to suspend or permanently revoke DOCTOR HEIM's certificate based on other violations of this CONSENT AGREEMENT.

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

If the Secretary and Supervising Member of the BOARD determine that there is clear and convincing evidence that DOCTOR HEIM has violated any term, condition or limitation of this CONSENT AGREEMENT, DOCTOR HEIM agrees that the violation, as alleged, also constitutes clear and convincing evidence that his continued practice presents a danger of immediate and serious harm to the public for the purposes of initiating a summary suspension pursuant to Section 4731.22(D), Ohio Revised Code.

ACKNOWLEDGMENTS/LIABILITY RELEASE

DOCTOR HEIM 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.

BRIAN DAVID HEIM, M.D.

Consent Agreement

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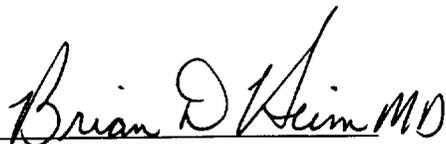
Any action initiated by the BOARD based on alleged violations of this CONSENT AGREEMENT shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

DOCTOR HEIM 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.

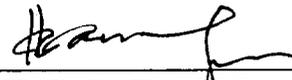
This CONSENT AGREEMENT shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies.

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 shall become effective upon the last date of signature below.


BRIAN DAVID HEIM, M.D.

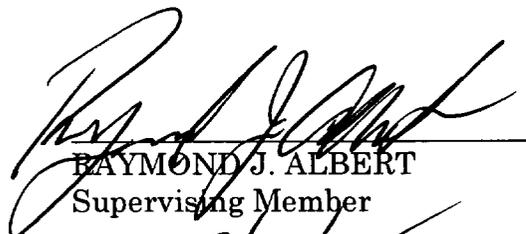
9/8/98
DATE


ANAND G. GARG, M.D.
Secretary

09/09/98
DATE


ROBERT B. TRATTNER, ESQ.
Attorney for Dr. Heim

9-8-98
DATE

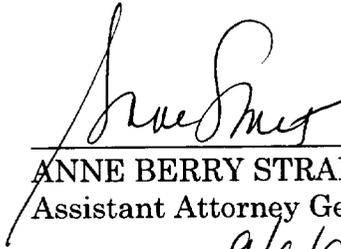

RAYMOND J. ALBERT
Supervising Member

9/7/98
DATE

BRIAN DAVID HEIM, M.D.

Consent Agreement

Page -14-



ANNE BERRY STRAIT
Assistant Attorney General

9/9/98

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/

July 8, 1998

NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING

Brian David Heim, M.D.
2901 Ironwood Drive
Akron, OH 44312-5812

Dear Doctor Heim:

In accordance with Sections 2929.24 and/or 3719.12, Ohio Revised Code, the Office of the Prosecuting Attorney of Stark County, Ohio reported that on or about June 17, 1998, in the Stark County Court of Common Pleas, you pleaded guilty to twenty-four (24) felony counts of Theft of Drugs, in violation of Section 2913.02, Ohio Revised Code, and twenty-one (21) felony counts of Illegal Processing of Drug Documents, in violation of Section 2925.23, Ohio Revised Code, and were found eligible for Treatment in Lieu of Conviction pursuant to Section 2951.041, Ohio Revised Code.

Therefore, pursuant to Section 3719.121(C), Ohio Revised Code, you are hereby notified that your license to practice medicine and surgery in the State of Ohio is immediately suspended. Continued practice after this suspension shall be considered practicing medicine without a certificate in violation of Section 4731.41, Ohio Revised Code.

Furthermore, 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:

- (i) On or about June 17, 1998, in the Stark County Court of Common Pleas, you pleaded guilty to twenty-four (24) felony counts of Theft of Drugs, in violation of Section 2913.02, Ohio Revised Code, and twenty-one (21) felony counts of Illegal Processing of Drug Documents, in violation of Section 2925.23, Ohio

Mailed 7/9/98

Revised Code, and were found eligible for Treatment in Lieu of Conviction pursuant to Section 2951.041, Ohio Revised Code.

The acts underlying your guilty plea and the judicial finding of Eligibility for Treatment in Lieu of Conviction involve your theft of controlled substances, including Meperidine, Darvocet N-100, and Morphine, for your personal use, from the prescription medication dispensing system at Aultman Immediate Care Center, in Hartville, Ohio.

- (2) Moreover, in order to grant your request for Treatment in Lieu of Conviction, the Court was required by statute to find that your "drug dependence was a factor leading to the criminal activity with which (you were) charged, and rehabilitation through treatment would substantially reduce the likelihood of criminal activity."

The acts, conduct, and/or omissions underlying this judicial finding of Eligibility for Treatment in Lieu of Conviction for violations of Section 2913.02, Ohio Revised Code, Theft of Drugs, and Section 2925.23, Ohio Revised Code, Illegal Processing of Drug Documents, as alleged in paragraph (1) above, individually and/or collectively, constitute "[c]ommission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2913.02, Ohio Revised Code, Theft of Drugs, and Section 2925.23, Ohio Revised Code, Illegal Processing of Drug Documents.

Further, the acts, conduct, and/or omissions underlying this judicial finding of Eligibility for Treatment in Lieu of Conviction for violations of Section 2913.02, Ohio Revised Code, Theft of Drugs, and Section 2925.23, Ohio Revised Code, Illegal Processing of Drug Documents, as alleged in paragraphs (1) and (2) above, individually and/or collectively, constitute "[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," as that clause is used in Section 4731.22(B)(26), 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 395 591 258
RETURN RECEIPT REQUESTED

DUPLICATE MAILING:
855 West Maple
Hartville, OH 44632
CERTIFIED MAIL # Z 395 591 256
RETURN RECEIPT REQUESTED

cc: Robert Trattner, Esq.

CERTIFIED MAIL # Z 395 591 257
RETURN RECEIPT REQUESTED