



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

December 8, 2004

Jeffrey David Neidhart, M.D.
2413 North Hidden Glen
Farmington, NM 48701

Dear Doctor Neidhart:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on December 8, 2004, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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 setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas. 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.

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.
Lance A. Talmage, M.D.
Secretary /TAD

LAT:jam
Enclosures

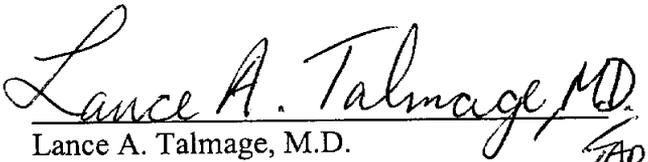
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CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on December 8, 2004, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Jeffrey David Neidhart, M.D., as it appears in the Journal of the State Medical Board of Ohio.

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


Lance A. Talmage, M.D.
Secretary

(SEAL)

December 8, 2004

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

JEFFREY DAVID NEIDHART, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on December 8, 2004.

Upon the Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the modification, approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

- A. **SUSPENSION OF CERTIFICATE:** The certificate of Jeffrey David Neidhart, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time.
- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Neidhart's certificate to practice medicine and surgery until all of the following conditions have been met:
 1. **Application for Reinstatement or Restoration:** Dr. Neidhart shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Medical Ethics Course:** At the time he submits his application for reinstatement or restoration, Dr. Neidhart shall provide acceptable documentation of successful completion of a course dealing with a medical ethics that addresses "the physician's duty to disclose information to the patient and to obtain informed consent." The exact number of hours and the specific content of the course or courses shall be subject to the prior approval

of 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 acquisition period(s) in which they are completed.

3. **Certification of Compliance with the Order of the New Mexico Medical Board**: At the time he submits his application for reinstatement or restoration, Dr. Neidhart shall submit to the Board certification from the New Mexico Medical Board, dated no earlier than sixty days prior to Dr. Neidhart's application for reinstatement or restoration, that Dr. Neidhart has maintained full compliance with the Order of the New Mexico Medical Board.
 4. **Additional Evidence of Fitness To Resume Practice**: In the event that Dr. Neidhart has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.
- C. **REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND HOSPITALS**: Within thirty days of the effective date of this Order, Dr. Neidhart shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Neidhart shall provide a copy of this Order 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.
- D. **REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING AUTHORITIES**: Within thirty days of the effective date of this Order, Dr. Neidhart shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Neidhart shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Neidhart shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
- E. **PRIOR STEP II CONSENT AGREEMENT**: This Order shall have no effect on Dr. Neidhart's November 22, 1999, Step II Consent Agreement with the Board.

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

This Order shall terminate upon Dr. Neidhart's reinstatement pursuant to the conditions established by Paragraph B of this Order.

(SEAL)


Lance A. Talmage, M.D. (TAD)
Secretary

December 8, 2004

Date

STATE MEDICAL BOARD
OF OHIO
2004 NOV 12 P 1:59

**REPORT AND RECOMMENDATION
IN THE MATTER OF JEFFREY DAVID NEIDHART, M.D.**

The Matter Jeffrey David Neidhart, M.D., was heard by Sharon W. Murphy, Esq., Hearing Examiner for the State Medical Board of Ohio, on October 15, 2004.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated July 14, 2004, the State Medical Board of Ohio [Board] notified Jeffrey David Neidhart, M.D., that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board based its proposed action on a prior action against Dr. Neidhart by the New Mexico Medical Board [New Mexico Board]. Moreover, the Board alleged that the action of the New Mexico Board constitutes “[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual’s license to practice; acceptance of an individual’s license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand, as that clause is used in R.C. 4731.22(B)(22).” Finally, the Board advised Dr. Neidhart of his right to a hearing. (State’s Exhibit 1A).
- B. The Board received a written hearing request from Dr. Neidhart on August 13, 2004. (State’s Exhibit 1B).

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Rebecca J. Albers, Assistant Attorney General.
- B. On behalf of the Respondent: Dr. Neidhart, having been apprised of his right to be represented by counsel, appeared at the hearing on his own behalf.

EVIDENCE EXAMINED

I. Testimony Heard

Jeffrey David Neidhart, M.D.

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A through 1G: Procedural exhibits.
2. State's Exhibit 2: Certified copies of documents pertaining to Dr. Neidhart maintained by the Board.
3. State's Exhibits 3, 3A, 3B, and 3C: Certified copies of documents pertaining to Dr. Neidhart maintained by the New Mexico Medical Board.

B. Presented by the Respondent

1. Respondent's Exhibit A: Copy of the March 11, 2004, Transcript of Proceedings of the Medical Review Board of the New Mexico Medical Board in the Matter of James A. Neidhart, M.D. and Jeff Neidhart, M.D. (Note: This exhibit is sealed to protect patient confidentiality).
2. Respondent's Exhibit B: Copy of an article entitled, "Communicating With Patients About Medical Errors," published in the *Archives of Internal Medicine*, August 9/23, 2004.
3. Respondent's Exhibit C: Copy of a July 7, 2004, letter to Dr. Neidhart from the New Mexico Board.

SUMMARY OF THE EVIDENCE

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

1. Jeffrey David Neidhart, M.D., received his medical degree in 1995 from the University of New Mexico. In 1998, he completed a residency in internal medicine at The Ohio State University and, in 2002, he completed a fellowship in hematology oncology at the University of Alabama. Dr. Jeffrey Neidhart is certified by the American Board of Internal Medicine in medical oncology. He testified that he is board eligible in hematology and expects to take that examination next fall. (Hearing Transcript [Tr.] at 12-13).

Dr. Jeffrey Neidhart currently practices medicine at the San Juan Oncology Associates Clinic, in Farmington, New Mexico, with several physicians, one of whom is his father, James Neidhart, M.D. Dr. Neidhart joined that practice in August 2002, shortly after completing his fellowship in hematology oncology. (Tr. at 6, 11).

2. Although not the subject of this action, Dr. Jeffrey Neidhart testified that, as a teenager, he had developed a problem with substance abuse. (Tr. at 13-14). On April 14, 1999, Dr. Neidhart entered into a Step I Consent Agreement with the Board in lieu of formal proceedings, based upon his violation of Sections 4731.22(B)(22) and (B)(26), Ohio Revised Code. In the Step I Consent Agreement, Dr. Neidhart agreed that his license to practice medicine and surgery in the State of Ohio would be suspended for at least ninety days, and that he would be subject to interim monitoring conditions, as provided in the Step I Agreement. (State's Exhibit [St. Ex.] 2 at 29-38).

On November 22, 1999, Dr. Jeffrey Neidhart entered into a Step II Consent Agreement which provided for reinstatement of his license to practice medicine and surgery in the State of Ohio, subject to probationary terms, conditions and limitations. Dr. Neidhart testified that he has been fully compliant with the terms of the Step II Consent Agreement. (Tr. at 49; St. Ex. 2 at 19-28).

Dr. Neidhart stated that his Step II Consent Agreement is due to expire in November 2004. He stated that he has continued to comply with the agreement, despite the fact that he does not intend to leave New Mexico, because he wants to be responsible for the mistakes he has made in his life. He stated that he wants to end things in Ohio cleanly, and to not run away from his problems. (Tr. at 14, 49).

3. On December 5, 2003, the New Mexico Medical Board [New Mexico Board] issued a Notice of Contemplated Action in the Matter of Jeff Neidhart, M.D. On March 11, 2004, the matter was heard before a New Mexico Board Hearing Examiner. (St. Exs. 3, 3A, and 3B). [Note: The allegations against Dr. Jeffrey Neidhart were consolidated for hearing with allegations against his father, Dr. James Neidhart. The transcript of the New Mexico Board hearing in the consolidated matter is admitted to the record as Respondent's Exhibit A.]

On May 21, 2004, the New Mexico Board issued Findings of Fact, Conclusions of Law, Decision and Order, and Notice of Right to an Appeal. (St. Exs. 3, 3B, and 3C). The Findings of Fact of the New Mexico Board include the following:

- a. Dr. Jeffrey Neidhart is engaged in the practice of medicine as a medical oncologist in a private group practice with his father, James A. Neidhart, M.D., and another physician.
- b. Dr. Jeffrey Neidhart joined the group in August 2002.
- c. The practice shares a building with a radiation oncology clinic; the two entities are separate businesses.
- d. The patient at issue was first seen by Dr. Jeffrey Neidhart in April 2003, and was diagnosed with carcinoma. Dr. Jeffrey Neidhart wrote a chemotherapy treatment plan for the patient that was to be given concurrently with radiation therapy. [Note:

- Medical records for the patient are attached as an exhibit to the transcript of the New Mexico Board hearing in this matter. See Respondent's Exhibit A, attachment A.]
- e. On April 16, 2003, Dr. Jeffrey Neidhart wrote the following order:
 - a. mitomycin in 50 cc [NS] normal saline IV over 20 min [minutes] d [day] 1 only;
 - b. 5FU d [day] 1-5 of radiation and last 5 days of radiation d [day] 29-33; and
 - c. CBC 2 weeks after initiation of chem [chemotherapy].
 - f. On April 17, 2003, Dr. Jeffrey Neidhart issued a verbal order stating that the previous orders were to start April 22 through April 25 with radiation the first four days.
 - g. The radiation and chemotherapy plan set forth by Dr. Jeffrey Neidhart was appropriate for the treatment of this patient.
 - h. On April 22, 2003, a nurse approached Dr. James Neidhart for clarification of whether the 5FU was to be given for four or five days. Dr. James Neidhart rewrote the order as follows: "Give above mitomycin M-F of next week. Start 4/28 & give for 5 days as above."
 - i. Dr. James Neidhart admits that the change in the order was an error and was inappropriate treatment for that patient. Dr. James Neidhart further admitted that he had intended to write for 5FU to be given five days in a row rather than the mitomycin.
 - j. The patient received four times the standard dose of mitomycin due to Dr. James Neidhart's erroneous order.
 - k. Mitomycin is potentially an extremely toxic drug when given only for one day. "The overdose was a serious error with a significant chance for morbidity and even mortality."
 - l. The patient received radiation treatment on Tuesday, April 22, 2003. He received additional radiation treatments each Monday through Friday, until May 6, 2003.
 - m. On May 1, 2003, Dr. Jeffrey Neidhart discovered the erroneous order which had resulted in a mitomycin overdosage. Dr. Jeffrey Neidhart spoke with Dr. James Neidhart that day. He also canceled the fifth and final administration of mitomycin and ordered a CBC for May 8, 2003.

- n. Dr. Jeffrey Neidhart knew that the patient was to receive radiation therapy on Friday, May 2, 2003, the day following the discovery of the mitomycin error and on Monday through Friday of the following week.
- o. Between May 1 and May 6, 2003, Dr. Jeffrey Neidhart did not inform the patient about the overdose.
- p. The physician who administered the radiation therapy, Dr. LaPorte, did not have access to the patient's medical records was not aware of the overdose. Dr. LaPorte administered radiation therapy to the patient on May 2, May 5, and May 6, 2003.
- q. Dr. Jeffrey Neidhart noted that on Monday, May 5, 2003, the patient reported having experienced nausea, vomiting and diarrhea since May 3, 2003. The patient also reported having a sore throat. Dr. Neidhart resumed the 5FU treatment on May 5, 2003.
- r. Dr. Jeffrey Neidhart's notes on May 5, 2003, also indicate that a dose of mitomycin was given, but the amount was not recorded.
- s. "Dr. LaPorte saw the patient on Tuesday, May, 6, 2003. The patient reported he was sick all weekend with severe diarrhea, he complained of mouth sores, he looked very ill, and his skin appeared 'bronzed.'"
- t. On May 7, 2003, Dr. LaPorte sought out Dr. Jeffrey Neidhart and asked "whether there is anything he should know about the patient that is out of the ordinary." Dr. Jeffrey Neidhart told Dr. LaPorte about the overdose for the first time.
- u. Dr. LaPorte discontinued the radiation therapy upon learning of the overdose.
- v. On May 7, 2003, Dr. Jeffrey Neidhart both told the patient of the overdose, and documented the overdose in the patient's medical record.
- w. The patient became increasingly ill and was hospitalized on May 7, 2003. The patient died on June 1, 2003. The cause of death was determined to be "toxic injury due to misadministration of chemotherapeutic agent mitomycin C, due to early invasive carcinoma." [Note: Dr. Neidhart described the patient's deteriorating condition and death in a July 8, 2003, letter to the New Mexico Board. See Respondent's Exhibit A, attachments A and C.]
- x. Dr. LaPorte testified before the New Mexico Board that it is his opinion that:
 - i. He should have been told about the overdose when the overdose was discovered.

- ii. He would have “immediately discontinued the radiation treatment had he known of the overdose of mitomycin because oncologists do not have clinical experience with continuing to give radiation therapy on a daily basis when the tissues have been oversensitized with an overdose of mitomycin.”
 - iii. “The continued radiation therapy the patient received on May 2nd, May 5th, and May 6th added to the patient’s morbidity but did not contribute to the ultimate outcome.”
 - iv. The patient should have been told about the overdose.
- y. Other physicians testified before the New Mexico Board as follows:
- i. A radiation oncologist testified that “the overdose of mitomycin was really serious and that a massive overdose could cause death.” She further testified that the overdose “should have been reported to the radiation oncologist so that the radiation oncologist could make a decision about whether to continue the radiation treatment.” Finally, she testified that she has worked intermittently in the Dr. Neidharts’ practice and that “her impression is that the doctors are excellent and stated that the facility is an excellent facility.”
 - ii. The third physician who works in the practice testified that Dr. Jeffrey Neidhart and Dr. James Neidhart had an ethical duty to tell the patient of the overdose.
 - iii. Another physician who knows and respects Dr. Jeffrey Neidhart and Dr. James Neidhart testified that they should have told the patient and other treating physicians.
- z. Several patients, former patients, and family members of patients testified as to the quality of care that they had received from Dr. Jeffrey Neidhart and Dr. James Neidhart.

(St. Ex. 2 at 3-11, 12).

4. The New Mexico Board concluded as follows:
- a. Dr. Jeffrey Neidhart had committed “conduct unbecoming in a person licensed to practice medicine, in that [Dr. Neidhart] violated the American Medical Association Code of Medical Ethics §8.12, Patient Information, by failing to inform the patient of the prescription overdose.”
 - b. Dr. Jeffrey Neidhart had committed gross negligence because he had “owed a duty to the patient to inform the patient of the overdose and failed to exercise even slight care in not informing the patient of the overdose.”

- c. Dr. Jeffrey Neidhart had committed gross negligence because he had “owed a duty to the patient to obtain informed consent to ongoing treatment, which duty included the duty to inform the patient of significant subsequent events or changed circumstances relating to ongoing treatment, and [Dr. Neidhart] failed to exercise even slight care in failing to obtain informed consent to ongoing treatment.”
- d. Dr. Jeffrey Neidhart had committed gross negligence because he had “owed a duty to the patient to inform the other treating physician of a significant event relating to the treatment of the patient and [Dr. Neidhart] failed to exercise even slight care in failing to inform the other treating physician of the overdose.”

(St. Ex. 2 at 13-14).

- 5. On May 21, 2004, the New Mexico Board ordered that Dr. Jeffrey Neidhart’s certificate to practice medicine be suspended for three consecutive months. The New Mexico Board further ordered that Dr. Neidhart complete a medical ethics course that addressed “the physician’s duty to disclose information to the patient and to obtain informed consent.” In addition, the New Mexico Board ordered that Dr. Neidhart present a plan describing corrective action to be taken in his practice “to avoid medication errors and to address the physicians’ response when medication errors occur.” (St. Ex. 2 at 14-15).
- 6. Dr. Jeffrey Neidhart testified that the events in this matter took place nine months after he had joined his father’s practice and shortly after he had completed his fellowship. (Tr. at 35). He stated that he has learned many lessons from this experience, most significantly, the importance of disclosure. (Tr. at 36-37).

Dr. Neidhart further testified that this experience has been devastating to him. He stated that he remembers all of his interactions with this patient, and finds them haunting. Dr. Neidhart acknowledged that he could and should have handled the situation better. He further acknowledged that, the fact that his father had been involved probably affected his judgment. (Tr. at 25-31, 41).

- 7. When asked why he had not told the patient of the medication error on the day he discovered it, Dr. Neidhart testified that he had not known how to tell the patient. He said that, in part, he had been afraid to cause problems between his father and Dr. LaPorte. Dr. Neidhart testified that he finally spoke up after Dr. LaPorte confronted him about the patient’s “bronze” skin tone, which can be a side effect of mitomycin. (Tr. at 16-18).

Dr. Neidhart further testified that when he told Dr. LaPorte about the medication overdose, Dr. LaPorte asked Dr. Neidhart if he had told the patient. Dr. Neidhart responded that he did not know how to tell the patient, and Dr. LaPorte told him, “Just tell him.” Dr. Neidhart testified that he had never been in a situation like that before, and he was confused. He stated that he simply did not have the words to tell the patient. (Tr. at 18-19). Dr. Neidhart testified

that, because he is committed to recovery, he lives a life that is based on honesty. He stated that, when he finally told the patient, it had been “a huge relief.” (Tr. at 48).

8. Dr. Neidhart acknowledged that he had not noted the overdose in the patient’s medical record. Initially, Dr. Neidhart testified that he did not believe that his conduct had been unethical or constituted gross negligence, as concluded by the New Mexico Board. As the hearing progressed, however, Dr. Neidhart acknowledged that he had deprived the patient of his right to make his own medical decisions after the overdose took place. He further acknowledged that the patient had had a right to decide whether to keep Dr. Neidhart as a physician, whether to go somewhere else for help, or whether to obtain a second opinion. Finally, Dr. Neidhart acknowledged that, in light of all of this, his conduct had been unethical and may have constituted gross negligence. (Tr. at 25-32, 41-45).
9. Dr. Neidhart acknowledged that the overdose of mitomycin could have had adverse consequences with continuing radiation therapy. (Tr. at 16). Dr. Neidhart acknowledged that the patient had been exhibiting side effects by Monday, May 5, 2003. Nevertheless, he stated that he had not been convinced that the side effects were a result of the mitomycin overdose, since it generally takes several weeks before such side effects will become apparent. Dr. Neidhart testified that the patient was also receiving 5FU, and that the symptoms could have been related to the other chemotherapeutic agent. Dr. Neidhart testified that he had not thought that the overdose would have led to the patient’s death. (Tr. at 19-25, 36).
10. Dr. Neidhart submitted a copy of an article entitled, “Communicating With Patients About Medical Errors,” published in the *Archives of Internal Medicine*, August 9/23, 2004. One aspect of the study found that, “Studies using retrospective self-report by physicians and trainees suggest that disclosure often does not occur.” (Respondent’s Exhibit [Resp. Ex.] B at 1691). In the results section, the article states as follows:

Available research findings suggest that patients and the public support disclosure. Physicians also indicate support for disclosure, but often do not disclose. We found insufficient empirical evidence to support conclusions about the disclosure process or its consequences.

(Resp. Ex. B at 1690).
11. Dr. Neidhart testified that, in conjunction with the New Mexico Board, he and his partners had instituted multiple means of preventing medical errors. He stated that the group had hired an outside consultant who analyzed the practice, reviewed records, and reviewed procedures. He stated that the consultant had generated new procedures with which the group now abides. (Tr. at 46-47).

Dr. Neidhart further testified that he has recently completed an eight-day review course in medical oncology in Washington, D.C. Moreover, he is planning to take an ethics course at the Cleveland Clinic in February. (Tr. at 47).

12. Dr. Neidhart testified that his New Mexico license is currently under suspension. He expects that his license will be reinstated on January 1, 2005. (Tr. at 35, 41).
13. By letter dated July 7, 2004, the New Mexico Board advised Dr. Neidhart that,

A representative of the New Mexico Medical Board has reviewed and approved the description of the corrective action that have been taken to minimize the risk of medication errors, the plan for physician response when a medication error occurs, and the proposed medial ethics course at Case Western Reserve University.

We further understand you period of suspension will be from October 1, 2004, through December 31, 2004. At this time you are considered to be in compliance with all Board requirements and your license will be returned to Active status following suspension on January 1, 2005.

(Resp. Ex. C).

FINDINGS OF FACT

1. On April 14, 1999, Jeffrey David Neidhart, M.D., entered into a Step I Consent Agreement with the Board in lieu of formal proceedings, based upon his violation of Sections 4731.22(B)(22) and (B)(26), Ohio Revised Code. In the Step I Consent Agreement, Dr. Neidhart agreed that his license to practice medicine and surgery in the State of Ohio would be suspended for at least ninety days, and that he would be subject to interim monitoring conditions, as provided in the Step I Agreement. On November 22, 1999, Dr. Neidhart entered into a Step II Consent Agreement which provided for reinstatement of his license to practice medicine and surgery in the State of Ohio, subject to probationary terms, conditions and limitations.
2. On May 21, 2004, the New Mexico Medical Board [New Mexico Board] ordered that Dr. Neidhart's certificate to practice medicine be suspended for three consecutive months. The New Mexico Board further ordered that Dr. Neidhart complete a medical ethics course that addressed "the physician's duty to disclose information to the patient and to obtain informed consent." In addition, the New Mexico Board ordered that Dr. Neidhart present a plan describing corrective action to be taken in his practice "to avoid medication errors and to address the physicians' response when medication errors occur."

CONCLUSIONS OF LAW

The action of the New Mexico Medical Board in the Matter of Jeffrey David Neidhart, M.D., as set forth in Findings of Fact 2, constitutes “[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual’s license to practice; acceptance of an individual’s license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand,” as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.”

* * * * *

The New Mexico Medical Board concluded that Dr. Neidhart had committed “conduct unbecoming in a person licensed to practice medicine,” and gross negligence based on his failure to advise the patient and Dr. LaPorte of the medication overdose caused by another physician. At hearing, Dr. Neidhart acknowledged that his conduct had been unethical and may have constituted gross negligence.

Nevertheless, it is apparent that Dr. Neidhart has great remorse for his role in this matter. Moreover, at the time this incident occurred, Dr. Neidhart had been in practice only nine months. Dr. Neidhart stated that he has taken significant steps to prevent a reoccurrence of such an error, and has learned the importance of full disclosure. Finally, the New Mexico Medical Board’s Order appropriately addressed Dr. Neidhart’s shortcomings in this matter. Accordingly, so long as Dr. Neidhart fully complies with that Order, there is no evidence that Dr. Neidhart poses any threat to the public at this time.

PROPOSED ORDER

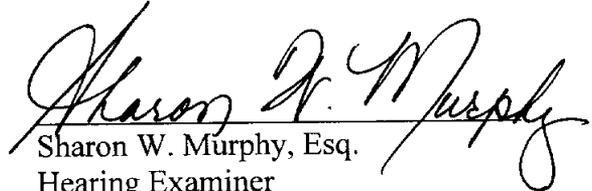
It is hereby ORDERED that:

- A. **SUSPENSION OF CERTIFICATE:** The certificate of Jeffrey David Neidhart, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time.
- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Neidhart’s certificate to practice medicine and surgery until all of the following conditions have been met:
 1. **Application for Reinstatement or Restoration:** Dr. Neidhart shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.

2. **Medical Ethics Course:** At the time he submits his application for reinstatement or restoration, Dr. Neidhart shall provide acceptable documentation of successful completion of a course dealing with a medical ethics that addresses “the physician’s duty to disclose information to the patient and to obtain informed consent.” The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of 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 acquisition period(s) in which they are completed.
 3. **Certification of Compliance with the Order of the New Mexico Medical Board:** At the time he submits his application for reinstatement or restoration, Dr. Neidhart shall submit to the Board certification from the New Mexico Medical Board, dated no earlier than sixty days prior to Dr. Neidhart’s application for reinstatement or restoration, that Dr. Neidhart has maintained full compliance with the Order of the New Mexico Medical Board.
 4. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Neidhart has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.
- C. **REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, Dr. Neidhart shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Neidhart shall provide a copy of this Order 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.
- D. **REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, Dr. Neidhart shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Neidhart shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Neidhart shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

- E. **PRIOR STEP II CONSENT AGREEMENT:** This Order shall no effect on Dr. Neidhart's November 22, 1999, Step II Consent Agreement with the Board.

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


Sharon W. Murphy, Esq.
Hearing Examiner



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

EXCERPT FROM THE DRAFT MINUTES OF DECEMBER 8, 2004

REPORTS AND RECOMMENDATIONS

Ms. Sloan announced that the Board would now consider the findings and orders appearing on the Board's agenda. She asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Manju Bajpai, M.D.; Gregory Lee Ebner, D.O.; Jeffrey David Neidhart, M.D.; and Kwabena Oteng, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

Ms. Sloan asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

Ms. Sloan noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further

adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters.

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

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

.....
Dr. Talmage left the meeting during the previous discussion.

.....

JEFFREY DAVID NEIDHART, M.D.

Ms. Sloan directed the Board's attention to the matter of Jeffrey David Neidhart, M.D. She advised that no objections were filed to Hearing Examiner Murphy's Report and Recommendation.

Ms. Sloan continued that a request to address the Board has been timely filed on behalf of Dr. Neidhart. Five minutes would be allowed for that address.

Dr. Neidhart thanked the Board for taking his case out of order, noting that he has a flight out of Columbus at 4:30 p.m. He flies back to New Mexico tonight.

Dr. Neidhart stated that he would like to address the Board regarding the Findings of Fact and Conclusions of Law of Hearing Examiner Murphy. He stated that he recently took a medical ethics course at the Robert Wood Johnson Foundation, a school-sponsored renewal in medicine through ethics course, a Prime A course. He was asked to write an essay outlining his specific progress in understanding the nature of his offense and unethical behavior, utilizing critical reasoning and ethical introspection gained from the seminar.

Dr. Neidhart stated that his patient received the wrong dose of medication, as prescribed by his partner, and upon finding the error, he did not immediately notify the patient. In doing so, he deprived the patient of his right to make his own medical decisions, including, but not limited to examples such as keeping Dr. Neidhart as his physician, seeking medical care elsewhere, instituting corrective and/or continuing therapy in seeking a second opinion. Furthermore, he subsequently instituted therapy after the overdose without informed consent of the patient, whether he did or did not want the particular therapy.

Dr. Neidhart stated that, as a physician, he has accepted a great responsibility. This heritage has, unfortunately, been scarred, dating back centuries, as he learned in the ethics course. The "Archives of Internal Medicine" in August 2004 reported results that available research suggests that patients and the

public support disclosure of medical errors. Physicians also indicate support for disclosure, but often do not disclose. They found insufficient empirical evidence to support conclusions about disclosure or its consequences. They stated that, with respect to process, researchers should seek to develop answers to the many practical questions faced by practitioners, such as who should disclose, what information should be provided, and when disclosure should occur.

Dr. Neidhart stated that on October 15, 2004, after the State Medical Board hearing, his fiancée, who was present for the discussion, helped him realize that he kind of acquired the Findings of Fact and Conclusions of Law outlined by the New Mexico Medical Board to define his whole character. So at the beginning he fought against it. That afternoon he had clarity that he could accept his inadequacy as defined by that point in time when he was grossly negligent, conduct unbecoming in a person licensed to practice medicine. Dr. Neidhart stated that he has learned invaluable skills and tools and has intimately been reminded of innumerable educational experiences, skills, tools and such, as acquired by his mentors. His first assignment was to define the characteristics of an excellent physician: honest, competent, integrity, sensitive, leader, compassionate, focused, charitable, a finisher, inquisitiveness, recognize limits, accept criticism, altruism, effective communicator, energetic, humble and patient. Dr. Neidhart stated that his mentors epitomized the characteristics of excellent physicians. As a leader, he knows that immediate disclosure of a medical error is the right answer when placed in the position he was. The process of disclosure utilizes all of the characteristics of an excellent physician. Furthermore, the course identified numerous other ethical issues that require the same individual characteristics which ideally rid the profession of future atrocities and embarrassment.

Dr. Neidhart continued that in 1987 (sic) the U.S. Congress adopted the Constitution Bill of Rights and adopted common law tradition from England, requiring informed consent. It was not until the 1920s that U.S. national standards on medicine became a prominent issue. Not until the 1970s that the American Hospital Association adopted the patient bill of rights, including the importance of informed consent. During this time, medicine was marred by atrocities, including involuntary sterilization by thirteen countries, including the United States of America and Germany. The U.S. Public Health Service conducted the Tuskegee experiments without informed consent, and prevented those participating from receiving penicillin, which became the accepted treatment. Clinical research in some of the leading U.S. institutions was marred by unfortunate separation between the interests of science and the interests of patients, as reported in the New England Journal of Medicine article, Vol. 274, 1966, including injecting live cancer cells into healthy patients. It was not until 1974 that the National Research Act was enacted.

Dr. Neidhart stated that his point is that he's aware that the particular acts are clearly unethical and grossly negligent, and conduct unbecoming in a person licensed to practice medicine, but probably does not define the foundation of the U.S.A., the Public Health Service, or the physicians from the notable research institutions that conducted the study, as presented in the New England Journal of Medicine. This year's Vioxx recall, though seemingly denying the patients' bill of rights and informed consent of the significant side effects of that drug with pending legal and government investigation could dictate unethical behavior, gross negligence and conduct unbecoming a person licensed to practice medicine, but does not absolutely define the foundation of the U.S.F.D.A. and its Board.

Ms. Sloan advised Dr. Neidhart that he had five minutes to state for the Board what he wants the Board to know about him and his case.

Dr. Neidhart asked whether he had his five minutes.

Ms. Sloan asked him to summarize what it is that he wants the Board to know.

Dr. Neidhart stated that the point is that when he was here, when the prosecuting attorney was saying all of these things about him, he took it to basically define who he was as a person, completely, and in every aspect of his life. He fought against it and asked how that could be, and he guesses that his point was that he was, but that doesn't define who he is as a person forever. That's all he was trying to say.

Dr. Neidhart stated that he didn't realize that he was supposed to file objections in writing, but his sobriety date is May 12, 1998. He had a previous consent agreement that had to be in place for five years. That basically was up November 2, 2004. He's just trying to be in good standing so that he can relinquish his Ohio license.

Ms. Sloan asked whether the Assistant Attorney General wished to respond.

Ms. Albers stated that this is a bootstrap action of a New Mexico Board Order, and like many bootstraps, the Board has a thorough record. A lot of that is because Dr. Neidhart came in and provided the transcript of what happened in this hearing. Ms. Albers stated that it is important to note that it was not until well into the hearing, when Dr. Neidhart was asked pointed questions by the Hearing Examiner, as to depriving this patient of his right to seek additional medical treatment and other choices of which he was deprived by the doctor not being honest with him, did he come to realize that he, indeed, had acted as the New Mexico Board had said.

Ms. Albers stated that she would support the Report and Recommendation, as written. She added that this is a young physician, and the Report and Recommendation, as written, addresses the issues.

DR. EGNER MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JEFFREY DAVID NEIDHART, M.D. DR. STEINBERGH SECONDED THE MOTION.

Ms. Sloan stated that she would now entertain discussion in the above matter.

Dr. Egner commented that this was a troubling case. She stated that she could not imagine having this happen nine months out of a fellowship, with his father being the physician who changed the order. She stated that she's glad that Dr. Neidhart realizes that he's not defined by this, but it will live with him for the rest of his life. Dr. Egner stated that she is in support of the Report and Recommendation, except for one thing. She stated that, for purposes of putting some sort of termination on these requirements, since there is

no probationary period for him,

DR. EGNER MOVED THAT THE PROPOSED ORDER IN THE MATTER OF JEFFREY DAVID NEIDHART, M.D., BE AMENDED BY ADDING THE FOLLOWING AT THE END OF THE PROPOSED ORDER:

This Order shall terminate upon Dr. Neidhart's reinstatement pursuant to the conditions established by Paragraph B of this Order.

MR. BROWNING SECONDED THE MOTION.

Dr. Steinbergh noted that his previous Consent Agreement will still be in place. He'll have to request release from that Agreement.

Dr. Steinbergh stated that she agrees with the proposed amendment. She stated that she thought this was a terrible occurrence for Dr. Neidhart. From listening to Dr. Neidhart today, and from the Report and Recommendation, it was clear that Dr. Neidhart understood what occurred. He simply did not know how to handle it at the time in terms of informing the patient. It was a tragic series of events that occurred. Dr. Steinbergh stated that she feels confident that, although Dr. Neidhart may make mistakes in the future, he now knows better how to handle those mistakes.

Mr. Dilling noted that Dr. Neidhart could have requested release from his consent agreement in November of this year. He's already met those requirements.

Dr. Steinbergh stated that he hasn't asked for release yet.

Dr. Neidhart stated that he wants to conclude what the Board is doing today before asking for release.

Dr. Kumar stated that he doesn't want to spend a lot of time on this, but he would like to add a comment. This was obviously an issue of Dr. Neidhart's not being upfront with a patient, but there was also a medical error made. Dr. Kumar stated that he would like to see a course in reducing medical errors included in the Proposed Order.

Dr. Steinbergh stated that she would not add anything more. She stated that she believes that the New Mexico Board has covered all those things. She stated that she doesn't think he needs to do anything beyond what this Order asks him to do. She noted that Dr. Neidhart did not make the medical error, he simply didn't know how to handle it once he learned of the error. It was his partner, who was his father, who made the error.

Dr. Egner stated that the nurse made the error of walking up to a physician and just asking whether the order could be changed. She also made an error.

Dr. Kumar stated that he understands what Dr. Steinbergh and Dr. Egner are saying, but his thought process was that this is where the Board tries to reduce future errors also.

A vote was taken on Dr. Egner's motion to amend:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF JEFFREY DAVID NEIDHART, M.D. DR. BUCHAN SECONDED THE MOTION.

Dr. Steinbergh stated that part of the New Mexico Order required Dr. Neidhart to present a plan describing corrective action to be taken in his practice to avoid medication errors and to address the physician's response when medication errors occur.

A vote was taken on Mr. Browning's motion to approve and confirm, as amended:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

July 14, 2004

Jeffrey David Neidhart, M.D.
2413 North Hidden Glen
Farmington, New Mexico 87401

Dear Doctor Neidhart:

In accordance with R.C. Chapter 119., you are hereby notified that the State Medical Board of Ohio 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 April 14, 1999, you entered into a Step I Consent Agreement (Step I Agreement) with the Board in lieu of formal proceedings, based upon your violation of R.C. 4731.22(B)(22) and (B)(26). You agreed that your license to practice medicine and surgery in the State of Ohio be suspended for at least 90 days, and that you be subject to interim monitoring conditions, as provided in the Step I Agreement, a copy of which is attached hereto and incorporated herein.
- (2) On or about November 22, 1999, you entered into a Step II Consent Agreement (Step II Agreement) which provided for reinstatement of your license to practice medicine and surgery in the State of Ohio, subject to probationary terms, conditions and limitations. As of this date, you remain subject to the terms, conditions and limitations of the Step II Consent Agreement, a copy of which is attached hereto and incorporated herein.
- (3) On or about May 21, 2004, the New Mexico Medical Board (New Mexico Board) suspended you from the practice of medicine for three consecutive months; required completion of a medical ethics course; and required you to provide, within thirty (30) days, in writing, a description of the corrective action to be taken at the San Juan Oncology Associates Clinic, Farmington, New Mexico, to avoid medication errors, and to address the physicians' response when medication errors occur.

Your underlying conduct is provided in detail in the New Mexico Board Hearing Officers Report, and Findings of Fact, Conclusions of Law, Decision and Order, Notice of Right to Appeal, copies of which are attached hereto and incorporated herein.

The New Mexico Board Findings of Fact, Conclusions of Law, Decision and Order, Notice of Right to Appeal, as alleged in paragraph three (3) above, constitutes "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in R.C. 4731.22(B)(22).

Mailed 7-15-04

Pursuant to R.C. Chapter 119., 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.

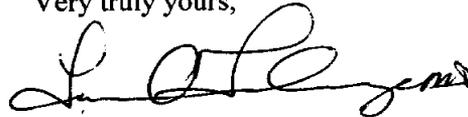
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at 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, R.C. 4731.22(L), 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/cw
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5142 3035
RETURN RECEIPT REQUESTED

Duplicate Mailing
800 West Maple Street
Farmington, New Mexico 87401

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**BEFORE THE NEW MEXICO
MEDICAL BOARD**

RECEIVED

APR 09 2004

**NM BOARD OF
MEDICAL EXAMINERS**

**IN THE MATTER OF
JEFF NEIDHART, M.D.**

Respondent

Number Case 2003-015

HEARING OFFICER'S REPORT

THIS MATTER came before Paul Kovnat, M.D., duly appointed Hearing Officer, on March 11, 2004 for hearing on the merits. Respondent Jeff Neidhart was present at the hearing and was represented by Michele U. Estrada, Attorney at Law. The Administrative Prosecutor was G.T.S. Khalsa. Corliss Thalley, Assistant Attorney General, was present to advise the Hearing Officer and the New Mexico Medical Board. Christine Maestas, CSR, made a verbatim record of all the evidence received and all proceedings conducted at the hearing.

Based upon the evidence presented at the hearing, I recommend the following findings of fact:

1. At all times material to this action Respondent Jeff Neidhart, M.D., was and is licensed to practice medicine by the New Mexico Medical Board ("Board"). Tr. 24, 120.
2. Respondent Jeff Neidhart is engaged in the practice of medicine as a medical oncologist in a private group practice with his father, James A. Neidhart, M.D., and Graham Smith, M.D., in Farmington, New Mexico. Tr. 25, 85. Dr. James A.

Neidhart is Respondent in Case Number 2003-014.¹ Dr. Smith is not a party to this proceeding.

3. Respondent Jeff Neidhart joined the medical oncology group practice in August 2002. Tr. 85.

4. The medical oncology clinic is co-located with the radiation oncology clinic in a single building. The two entities are separate businesses. Tr. 132.

5. On December 5, 2003 the Board initiated an action against Respondent Jeff Neidhart by issuing a Notice of Contemplated Action ("NCA"). Ex. Q. A notice setting the date, time, and place of the hearing was served on Respondent. Ex. X.

6. The NCA alleges that Respondent Jeff Neidhart violated Section 61-6-15 (D)(12), gross negligence, and Section 61-6-15 (D)(29), conduct unbecoming a person licensed to practice, in that certain specified conduct constitutes a violation of American Medical Association Code of Medical Ethics, §8.12. Ex. Q.

7. The patient was diagnosed with carcinoma and was first seen by Respondent Jeff Neidhart at San Juan Oncology Associates on April 14, 2003. Tr. 25, Ex. A-15. The patient was Respondent Jeff Neidhart's patient. Tr. 122.

8. On April 16, 2003, Respondent Jeff Neidhart wrote a chemotherapy treatment plan for the patient. The chemotherapy treatment plan was to be given concurrently with radiation therapy. Tr. 26, Ex. H.

¹ The NCAs against Dr. James Neidhart and Dr. Jeff Neidhart arise out of the same series of events and occurrences relating to the medical treatment of a single patient. The parties filed a joint oral motion to consolidate the two cases for hearing. The Hearing Officer granted the motion. Tr. 10; Exs. S, Q.

9. Respondent Jeff Neidhart's order included the following:
 - a. mitomycin in 50 cc NS [normal saline] IV over 20 min [minutes] d [day] 1 only;
 - b. 5FU d [day] 1-5 of radiation and last 5 days of radiation (d [day] 29-33]; and
 - c. CBC 2 weeks after initiation of chemo [chemotherapy]. Ex. H.
10. On April 17, 2003, Respondent Jeff Neidhart issued a verbal order, stating that the previous orders were "to start 4/22 through Friday 4/25 - with radiation 1st 4 days." Tr. 27, Ex. H.
11. Radiation therapy treatment was prescribed by Robert LaPorte, M.D. Tr. 153; Exs. A-2, P.
12. Respondent Jeff Neidhart's chemotherapy treatment plan, in conjunction with the prescribed radiation treatment, as written on April 16, 2003, is an accepted standard of care for the treatment of the patient's disease and was appropriate. Tr. 26, 27, 86, 220; Ex. 2.
13. On April 22, 2003 a nurse approached Dr. James Neidhart for clarification whether the patient's 5FU order was to be given for four or five days. Tr. 123.
14. On April 22, 2003 Dr. James Neidhart re-wrote the order and changed the patient's chemotherapy order to read: "Give above mitomycin M-F of next wk. - Start 4/28 & give for 5 days as above." Tr. 28, 122; Ex. H.
15. Dr. James Neidhart admits that the change in the order was an error and admits that what he wrote was wrong as far as what should have been prescribed to treat the patient. Dr. James Neidhart testified that he did not intend to write that mitomycin be

given for 5 days in a row, but intended that the 5FU was to be given 5 days in a row. Tr. 123, 129.

16. The patient received four times the standard dose of mitomycin due to Dr. James Neidhart's erroneous change order. Tr. 139, 156; A-42.

17. Mitomycin is potentially an extremely toxic drug even given for one day. Tr. 152.

18. The overdose of mitomycin was a serious error with a significant chance for morbidity and even mortality. Tr. 33, 88, 156, 230.

19. The patient began daily (Monday-Friday) radiation treatment on Tuesday, April 22, 2003. The radiation treatment continued according to the treatment plan on April 23rd, 24th, 25th, 28th, 29th, 30th, May 1st, 2nd, 5th, and 6th. Tr. 153-154, Ex. P.

20. On Thursday, May 1, 2003, a nurse, Fran Robinson, discovered a malfunction in the patient's 5FU infusion pump. The nurse alerted Respondent Jeff Neidhart about the pump problem. Tr. 30, 104.

21. On May 1, 2003, Respondent Jeff Neidhart looked at the patient chart and discovered the erroneous order of mitomycin. Tr. 30, 31, 106.

22. Respondent Jeff Neidhart talked to Dr. James Neidhart the day that he, Respondent Jeff Neidhart, discovered the overdose of mitomycin, which was May 1, 2003. Tr. 31, 106, 124.

23. Respondent Jeff Neidhart cancelled the fifth and final administration of mitomycin. Tr. 106-07, Ex. H. Respondent Jeff Neidhart also ordered a CBC for Wednesday, May 8, 2003. Tr. 97; Ex. H.

24. Nurse Robinson testified that the nursing staff of the medical oncology clinic talked among themselves about the erroneous order of mitomycin on May 1, 2003. Tr. 109.

25. Nurse Robinson was not instructed to either report or conceal the error. Tr. 108-12.

26. Respondent Jeff Neidhart knew that the patient was to receive radiation therapy on Friday, May 2, 2003, the day following the discovery of the overdose. Respondent Jeff Neidhart knew that the radiation treatment was scheduled to continue the following week, May 5th through 9th. Tr. 33; Exs. A-2, H.

27. Between May 1 and May 6, 2003, Respondent Jeff Neidhart did not inform the patient of the overdose and did not take steps to assure that the patient would be told about the overdose. Tr. 34.

28. Respondent Jeff Neidhart did not chart the overdose in the patient's record on May 1, 2003. Tr. 37; Ex. A-29.

29. Respondent Jeff Neidhart did not chart the overdose in the patient's record until May 7, 2003. Tr. 51; Ex. A-42.

30. The radiation oncology entity does not have access to the patient's medical oncology records. Tr. 132, 136. The most likely way that Dr. LaPorte, the radiation oncologist, would find out about the overdose of mitomycin would be for Respondent Jeff Neidhart or other treating medical oncologist to tell him about the overdose. Tr. 136.

31. Respondent Jeff Neidhart did not inform Dr. LaPorte of the overdose of mitomycin until May 7, 2003. Tr. 136.

32. Dr. LaPorte continued the patient's radiation treatment on May 2nd, May 5th, and May 6th as scheduled. Tr. 154-55; Ex. P.

33. Dr. LaPorte did not know about the overdose of mitomycin until May 7, 2003. Tr. 160.

34. Respondent Jeff Neidhart saw the patient on Monday, May 5, 2003. The patient reported nausea, vomiting, and diarrhea since Saturday, and reported having a sore throat. Tr. 44-45; Exs. A-32, A-34. Respondent Jeff Neidhart resumed the 5FU treatment on Monday, May 5th. Tr. 45-46.

35. Respondent Jeff Neidhart's physician's notes of May 5th reports mitomycin at the initiation of x-ray therapy, but does not report the dose the patient received. Tr. 47; Ex. A-32.

36. Respondent Jeff Neidhart's physician's notes of May 5th states: "[Patient] has nausea, vomiting and diarrhea with the latter improved with Imodium. We will try the Phenergan. He will return in 2 weeks for his previous scheduled appointment, as long as he is doing better. He will be in the clinic every day this week and I've asked him to inform the nurses of how his condition is progressing."

37. Dr. LaPorte testified that he would have immediately discontinued the radiation treatment had he known of the overdose of mitomycin because oncologists do not have clinical experience with continuing to give radiation therapy on a daily basis when the tissues have been oversensitized with an overdose of mitomycin. Tr. 157, 165.

38. Dr. LaPorte saw the patient on Tuesday, May 6, 2003. The patient reported he was sick all weekend with severe diarrhea, he complained of mouth sores, he looked very ill, and his skin appeared "bronzed." Tr. 159-60; A-37.

39. Dr. LaPorte sought out Respondent Jeff Neidhart on May 7, 2003 and asked whether there is anything he should know about the patient that is out of the ordinary. Tr. 160. Respondent Jeff Neidhart told Dr. LaPorte that the patient received four times the normal dose of mitomycin the previous week. Tr. 161. Dr. LaPorte testified that in his opinion he should have been told about the overdose of mitomycin when the overdose was discovered. Tr. 166.

40. The patient reported to his supervisor that he was too sick to go to work on the weekend, May 3rd and 4th, and too sick to go to work on Monday and Tuesday. Tr. 72-73; Ex. O. The patient was extremely ill on Wednesday, May 7, 2003. The patient could not answer the telephone and needed assistance from his mother and sister to get dressed and to get to the clinic. The patient needed wheelchair assistance once he arrived at the clinic. Tr. 77-78.

41. Respondent Jeff Neidhart first told the patient about the overdose of mitomycin on May 7, 2003. Tr. 78-79. Later the same day Dr. Smith and Dr. LaPorte discussed the overdose with the patient. Tr. 91, 162-63.

42. Dr. LaPorte discontinued the remaining radiation treatment upon learning of the overdose of mitomycin. Tr. 154, 163; Ex. A-41.

43. Respondent Jeff Neidhart discontinued 5FU treatment on May 7, 2003. Ex. H.

44. Dr. LaPorte testified that in his opinion the continued radiation therapy the patient received on May 2nd, May 5th, and May 6th added to the patient's morbidity but did not contribute to the ultimate outcome. Tr. 165. Dr. LaPorte testified that in his opinion the patient should have been told about the overdose of mitomycin. Tr. 166.

45. Victoria Cividino, M.D., a radiation oncologist, testified that she has worked intermittently with Dr. James Neidhart and Dr. Graham Smith for the last four years as a *locum tenes* and more recently with Respondent Jeff Neidhart. Tr. 218. Dr. Cividino testified that her impression is that the doctors are excellent and stated that the facility is an excellent facility. Tr. 221-223.

46. Dr. Cividino testified that the overdose of mitomycin was really serious and that a massive overdose could cause death. Tr. 230.

47. Dr. Cividino testified that the overdose of mitomycin should have been reported to the radiation oncologist so that the radiation oncologist could make a decision about whether to continue the radiation treatment. Tr. 233-234.

48. Dr. Smith testified that Respondent Jeff Neidhart and Dr. James Neidhart have an ethical duty to tell that patient of the overdose. Tr. 88.

49. Several patients, former patients, and relatives of patients testified about the high quality of care they or their relatives have received from Respondent Jeff Neidhart and Dr. James Neidhart. Tr. 207-217; 237-248.

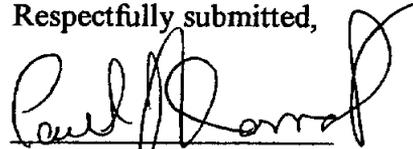
50. James Sheppeck, M.D. testified that he knows and respects Respondent Jeff Neidhart and Dr. James Neidhart. Dr. Sheppeck testified that when to tell a patient about a mistake or overdose involves medical judgment, testified that the patient has a right to know, and testified that he, as a doctor, should be told about a massive overdose if he were to treat the patient the next day. Tr. 255, 259-60.

51. The patient was hospitalized on May 7, 2003 with mitomycin toxicity. Tr. 94; Exs. A-43, A-44, H.

52. The patient died on June 1, 2003. The Office of Medical Investigator reported the cause of death as toxic myocardial injury due to misadministration of chemotherapeutic agent mitomycin C, due to early invasive carcinoma. Tr. 145.

Date: April 9, 2004

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul Kovnat", written over a horizontal line.

Paul Kovnat, M.D.
Hearing Officer

BEFORE THE NEW MEXICO
MEDICAL BOARD

IN THE MATTER OF

Jeff Neidhart, M.D.,
Respondent.

Case No. 2003-015

FINDINGS OF FACT, CONCLUSIONS OF LAW
DECISION AND ORDER
NOTICE OF RIGHT TO AN APPEAL

THIS MATTER came before a quorum of the New Mexico Medical Board ("Board") for decision on May 20, 2004. An evidentiary hearing on the merits was held before Paul Kovnat, M.D., duly appointed Hearing Officer, on March 11, 2004. The Hearing Officer filed a timely Hearing Officer's Report containing recommended findings of fact. The Board, having thoroughly familiarized itself with the entire record of the proceedings, including all the evidence and the Hearing Officer's Report, makes the following findings of fact, renders the following conclusions of law, and issues this decision and order.

Board members John S. Romine, M.D., Steven Weiner, M.D., and Maureen Boshier are recused and did not participate in the hearing, deliberations, or decision in this matter.

FINDINGS OF FACT

A quorum of the Board, by a unanimous vote of 6 to 0, hereby adopts the Hearing Officer's recommended findings of fact numbered 1-52 in their entirety. The Board makes additional findings of fact as follows:

53. Respondent Jeff Neidhart, the patient's treating physician, owed duties to the patient.

54. Respondent Jeff Neidhart breached the duties to the patient as set forth in the conclusions of law, which breaches caused injury to the patient.

CONCLUSIONS OF LAW

Based on the findings of fact, the Board renders the following conclusions of law:

1. The Board has jurisdiction over Respondent Jeff Neidhart and the subject matter.
2. The Board has complied with all notice and hearing requirements of the Uniform Licensing Act and has afforded Respondent all due process rights required by law. The Decision and Order is timely rendered.
3. The Board has authority under Section 61-6-15 to discipline Respondent Jeff Neidhart upon satisfactory proof that Respondent violated the Medical Practice Act or rules of the Board as alleged in the Notice of Contemplated Action ("NCA").
4. The Board has sufficient evidence in the record to discipline Respondent Jeff Neidhart for violations as alleged in the NCA.
5. The Administrative Prosecutor presented sufficient evidence and proved by a preponderance of the evidence the allegations in ¶ 3 of the NCA, conduct unbecoming in a person licensed to practice medicine, in that Respondent Jeff Neidhart violated the American Medical Association Code of Medical Ethics, § 8.12, *Patient Information*, by failing to inform the patient of the prescription overdose.
6. The Administrative Prosecutor presented sufficient evidence and proved by a preponderance of the evidence that Respondent Jeff Neidhart committed gross

negligence in violation of Section 61-6-15 (D)(12), in that Respondent owed a duty to the patient to inform the patient of the overdose and failed to exercise even slight care in not informing the patient of the overdose.

7. The Administrative Prosecutor presented sufficient evidence and proved by a preponderance of the evidence that Respondent Jeff Neidhart committed gross negligence in violation of Section 61-6-15 (D)(12), in that Respondent owed a duty to the patient to obtain informed consent to ongoing treatment, which duty included the duty to inform the patient of significant subsequent events or changed circumstances relating to ongoing treatment, and Respondent failed to exercise even slight care in failing to obtain informed consent to ongoing treatment.

8. The Administrative Prosecutor presented sufficient evidence and proved by a preponderance of the evidence that Respondent Jeff Neidhart committed gross negligence in violation of Section 61-6-15 (D)(12), in that Respondent owed a duty to the patient to inform the other treating physician of a significant event relating to the treatment of the patient and Respondent failed to exercise even slight care in failing to inform the other treating physician of the overdose.

ORDER

Based on the above findings of fact and conclusions of law, the Board issues this decision and order.

IT IS ORDERED THAT:

1. Respondent Jeff Neidhart is suspended from the practice of medicine for three consecutive months. The three-month suspension shall be served over a three-month period that shall be completed no later than December 31, 2004.

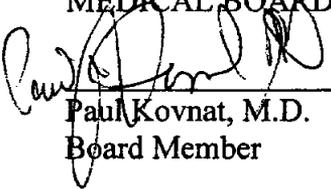
2. Respondent Jeff Neidhart shall complete a medical ethics course approved by the Board that addresses issues including the physician's duties to disclose information to the patient and to obtain informed consent. Within thirty (30) days of receipt of this order, Respondent Jeff Neidhart shall identify a medical ethics course to satisfy this provision and shall identify the time period within which Respondent will complete the course. The Board or its designee(s) shall approve the medical ethics course in advance.

3. Respondent Jeff Neidhart shall, within thirty (30) days of receipt of this order, present to the Board in writing a description of the corrective action to be taken at the San Juan Oncology Associates clinic to avoid medication errors and to address the physicians' response when medication errors occur.

This Decision and Order shall be served upon Respondent in accordance with law. A NOTICE informing Respondent of his right to seek judicial review and the time within which review must be brought is attached.

Paul Kovnat, M.D., is designated to sign the Decision and Order of the Board.

DATE: May 21, 2004

FOR THE NEW MEXICO
MEDICAL BOARD

Paul Kovnat, M.D.
Board Member

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing
was mailed by certified mail to:

Jeff Neidhart, MD
c/o Michelle Estrada
201 Third St NW #1600
Albuquerque NM 87125-0467

Certified # 7000-1530-0000-3030-4217

on this 25th day of May, 2004.


(signed)

STATEMENT OF RIGHTS

61-1-17 Petition for review.

A person entitled to a hearing provided for in the Uniform Licensing Act [61-1-1 NMSA 1978], who is aggrieved by an adverse decision of a board issued after hearing, may obtain a review of the decision in the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

39-3-1.1 Appeal of final decisions by agencies to district court; application; scope of review; review of district court decisions.

A. The provisions of this section shall apply only to judicial review of agency final decisions that are placed under the authority of this section by specific statutory reference.

B. Upon issuing a final decision, an agency shall promptly:

(1) prepare a written decision that includes an order granting or denying relief and a statement of the factual and legal basis for the order;
(2) file the written decision with the official public records of the agency;
and

(3) serve a document that includes a copy of the written decision and the requirements for filing an appeal of the final decision on:

(a) all persons who were parties in the proceeding before the agency; and

(b) every person who has filed a written request for notice of the final decision in that particular proceeding.

C. Unless standing is further limited by a specific statute, a person aggrieved by a final decision may appeal the decision to district court by filing in district court a notice of appeal within thirty days of the date of filing of the final decision. The appeal may be taken to the district court for the county in which the agency maintains its principal office or the district court of any county in which a hearing on the matter was conducted. When notices of appeal from a final decision are filed in more than one district court, all appeals not filed in the district court in which the first appeal was properly filed shall be dismissed without prejudice. An appellant whose appeal was dismissed without prejudice pursuant to the provisions of this subsection shall have fifteen days after receiving service of the notice of dismissal to file a notice of appeal in the district court in which the first appeal was properly filed.

D. In a proceeding for judicial review of a final decision by an agency, the district court may set aside, reverse or remand the final decision if it determines that:

- (1) the agency acted fraudulently, arbitrarily or capriciously;
- (2) the final decision was not supported by substantial evidence; or
- (3) the agency did not act in accordance with law.

E. A party to the appeal to district court may seek review of the district court decision by filing a petition for writ of certiorari with the court of appeals, which may

exercise its discretion whether to grant review. A party may seek further review by filing a petition for writ of certiorari with the supreme court.

F. The district court may certify to the court of appeals a final decision appealed to the district court, but undecided by that court, if the appeal involves an issue of substantial public interest that should be decided by the court of appeals. The appeal shall then be decided by the court of appeals.

G. The procedures governing appeals and petitions for writ of certiorari that may be filed pursuant to the provisions of this section shall be set forth in rules adopted by the supreme court.

H. As used in this section:

(1) "agency" means any state or local public body or officer placed under the authority of this section by specific statutory reference;

(2) "final decision" means an agency ruling that as a practical matter resolves all issues arising from a dispute within the jurisdiction of the agency, once all administrative remedies available within the agency have been exhausted. The determination of whether there is a final decision by an agency shall be governed by the law regarding the finality of decisions by district courts. "Final decision" does not mean a decision by an agency on a rule, as defined in the State Rules Act [Chapter 14, Article 4 NMSA 1978]; and

(3) "hearing on the matter" means a formal proceeding conducted by an agency or its hearing officer for the purpose of taking evidence or hearing argument concerning the dispute resolved by the final decision.

STEP II
CONSENT AGREEMENT
BETWEEN
JEFFREY D. NEIDHART, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

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

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

BASIS FOR ACTION

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

- A. THE STATE MEDICAL BOARD OF OHIO is empowered by Sections 4731.22(B)(22) and (26), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for “the limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, the imposition of probation by that authority, or the issuance of an order of censure or other reprimand by that authority for any reason, other than nonpayment of fees,” and “impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.”
- B. The STATE MEDICAL BOARD OF OHIO enters into this CONSENT AGREEMENT in lieu of formal proceedings based upon the violation of Sections 4731.22(B)(22) and (26), Ohio Revised Code, as set forth in Paragraphs E and F of the April 1999 Step I Consent Agreement between JEFFREY D. NEIDHART, M.D., and THE STATE MEDICAL BOARD OF OHIO, a copy of which is attached hereto and fully incorporated herein. The

STATE MEDICAL BOARD OF OHIO 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 CONSENT AGREEMENT.

- C. JEFFREY D. NEIDHART, M.D., is applying for reinstatement of his license to practice medicine and surgery in the State of Ohio, which was suspended pursuant to the terms of the above referenced April 1999 Step I Consent Agreement.
- D. JEFFREY D. NEIDHART, M.D., STATES that he is also licensed to practice medicine and surgery in the State of Alabama.
- E. JEFFREY D. NEIDHART, M.D., STATES and THE STATE MEDICAL BOARD OF OHIO (hereinafter "BOARD") ACKNOWLEDGES that DOCTOR NEIDHART has complied with the reinstatement conditions set forth in his April 1999 Step I Consent Agreement as follows:

The University of Alabama Birmingham has certified that from December 14, 1998, through February 25, 1999, DOCTOR NEIDHART successfully participated in the required inpatient treatment and that DOCTOR NEIDHART continues to participate in the continuing care program at that facility.

Further, DOCTOR NEIDHART's treatment experience and the credentials of the University of Alabama Birmingham's recovery program has been reviewed by Thomas Pepper, M.D., Medical Director of Talbot Recovery Services, University Hospitals East, a BOARD approved treatment provider in Columbus, Ohio. Dr. Pepper has submitted a report to the BOARD in which he opines that the University of Alabama Birmingham is a quality program with impressive credentials and recommends that DOCTOR NEIDHART's treatment at that facility should be accepted by the BOARD.

Further, in Dr. Pepper's report to the BOARD, he opines that DOCTOR NEIDHART is competent to practice medicine and capable of conforming his professional conduct to the prevailing standards of the community.

Further, Lindsay Levine, M.D., Assistant Professor of Psychiatry at The University of Alabama Birmingham, DOCTOR NEIDHART's BOARD approved treating psychiatrist, has submitted a report to the BOARD regarding her treatment of DOCTOR NEIDHART. In her report, Dr. Levine states that DOCTOR NEIDHART suffers from Affective Disorder NOS, Personality Disorder NOS with narcissistic features, and polysubstance dependence in remission and that DOCTOR NEIDHART's current treatment plan consists of

psychotherapy on a twice per month basis. Further, Dr. Levine opines that DOCTOR NEIDHART is doing well on no medications at this time; that DOCTOR NEIDHART is sincere in his efforts to change and to remain sober; and that DOCTOR NEIDHART is capable of practicing medicine according to acceptable and prevailing standards of care.

Dr. Levine also states that she does not recommend that DOCTOR NEIDHART participate in intensive insight-oriented psychotherapy at this time since DOCTOR NEIDHART's primary focus should be on sobriety and intensive psychotherapy could be emotionally upsetting to DOCTOR NEIDHART and interfere with his efforts to remain sober.

Further, Wm. Jerry Howell, M.D., has submitted a report to the BOARD of his psychiatric evaluation of DOCTOR NEIDHART. In his report, Dr. Howell opines that DOCTOR NEIDHART is working an excellent program of recovery and that DOCTOR NEIDHART is ready to return to work.

DOCTOR NEIDHART STATES that he has resided in Alabama since in or about January 1999. Further, since March 1999, DOCTOR NEIDHART has been monitored under the terms of an assistance agreement with the Alabama Physicians Recovery Network. Further, in July 1999, DOCTOR NEIDHART signed a Voluntary Agreement pursuant to the confirmation of his licensure application by the Alabama Board of Medical Examiners in which DOCTOR NEIDHART agreed to comply with certain treatment and monitoring conditions.

AGREED CONDITIONS

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

1. DOCTOR NEIDHART shall obey all federal, state and local laws, and all rules governing the practice of medicine in Ohio;
2. DOCTOR NEIDHART 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 the 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. Subsequent quarterly declarations must be received in the BOARD's offices on or before the first day of every third month;

3. DOCTOR NEIDHART shall appear in person for an initial interview before the BOARD three months after the effective date of this CONSENT AGREEMENT. Thereafter, DOCTOR NEIDHART shall appear before the BOARD or its designated representative as requested by the BOARD;
4. In the event that DOCTOR NEIDHART should leave the State of Alabama or reside or practice outside the State of Alabama, DOCTOR NEIDHART must immediately notify the BOARD. Periods of time spent outside the State of Alabama, unless in the State of Ohio, will not apply to the reduction of this period under the CONSENT AGREEMENT, unless otherwise determined by motion of the BOARD in instances where the BOARD can be assured that probationary monitoring is otherwise being performed;
5. In the event DOCTOR NEIDHART is found by the Secretary of the BOARD to have failed to comply with any provision of this CONSENT AGREEMENT, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under the CONSENT AGREEMENT;

MONITORING OF REHABILITATION AND TREATMENT

Sobriety

6. DOCTOR NEIDHART 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 NEIDHART's history of chemical dependency;
7. DOCTOR NEIDHART shall abstain completely from the use of alcohol;

Drug and Alcohol Screens/Supervising Physician

8. DOCTOR NEIDHART shall submit to random urine screenings for drugs and alcohol on a bi-weekly basis or as otherwise directed by the BOARD. DOCTOR NEIDHART 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;

The Alabama Physicians Recovery Network shall be designated as DOCTOR NEIDHART's BOARD approved supervising physician. 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 NEIDHART 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 screenings 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 NEIDHART must immediately notify the BOARD in writing, and make arrangements acceptable to the BOARD for another supervising physician as soon as practicable. DOCTOR NEIDHART shall further ensure that the previously designated supervising physician also notifies the BOARD directly of the inability to continue to serve and the reasons therefore;

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 NEIDHART's quarterly declaration. It is DOCTOR NEIDHART's responsibility to ensure that reports are timely submitted;

9. The BOARD retains the right to require, and DOCTOR NEIDHART agrees to submit, blood or urine specimens for analysis at DOCTOR NEIDHART's expense upon the BOARD's request and without prior notice. DOCTOR NEIDHART'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

10. Carl Shory, M.D., DOCTOR NEIDHART's monitor for the Alabama Physicians Recovery Network, shall be designated as DOCTOR NEIDHART's BOARD approved monitoring physician. Dr. Shory shall monitor DOCTOR

NEIDHART and provide the BOARD with quarterly reports on the doctor's progress and status. It shall be DOCTOR NEIDHART's responsibility to ensure that the monitoring physician's quarterly reports are submitted to the BOARD on a timely basis;

DOCTOR NEIDHART 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 NEIDHART must immediately so notify the BOARD in writing, and make arrangements acceptable to the BOARD for another monitoring physician as soon as practicable. DOCTOR NEIDHART 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 NEIDHART's quarterly declaration. It is DOCTOR NEIDHART's responsibility to ensure that reports are timely submitted;

Rehabilitation Program

11. DOCTOR NEIDHART shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or Caduceus, no less than three (3) times per week. DOCTOR NEIDHART's participation in the Alabama Physicians Recovery Network Therapeutic Monitored Group on a weekly basis shall satisfy one of DOCTOR NEIDHART's weekly meeting requirements. Substitution of any other specific program must receive prior BOARD approval;

DOCTOR NEIDHART shall submit with each quarterly declaration required under Paragraph 2 of this CONSENT AGREEMENT acceptable documentary evidence of continuing compliance with this program;

Aftercare

12. DOCTOR NEIDHART 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 CONSENT AGREEMENT, the terms of this CONSENT AGREEMENT shall control;

Psychiatric Treatment

13. DOCTOR NEIDHART shall continue in psychiatric treatment with Lindsay Levine, M.D., on a bi-weekly basis or as otherwise directed by the BOARD. In the event that Dr. Levine is unable or unwilling to treat him, DOCTOR NEIDHART shall immediately so notify the BOARD in writing, and submit the name and qualifications of a psychiatrist for approval by the BOARD. DOCTOR NEIDHART shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered for his psychiatric disorder. DOCTOR NEIDHART shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the BOARD on a quarterly basis, or as otherwise directed by the BOARD. The psychiatric reports shall contain information describing DOCTOR NEIDHART's current treatment plan and any changes that have been made to the treatment plan since the prior report; DOCTOR NEIDHART's compliance with his treatment plan; DOCTOR NEIDHART's mental status; DOCTOR NEIDHART's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. DOCTOR NEIDHART shall ensure that his treating psychiatrist immediately notifies the Board of his failure to comply with his psychiatric treatment plan and/or any determination that DOCTOR NEIDHART is unable to practice due to his psychiatric disorder. It is DOCTOR NEIDHART's responsibility to ensure that quarterly reports are received in the BOARD's offices no later than the due date for DOCTOR NEIDHART's quarterly declaration;

Releases

14. DOCTOR NEIDHART shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment provider and psychiatrist 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

15. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR NEIDHART shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, DOCTOR NEIDHART shall 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;

16. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR NEIDHART 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 any professional license. DOCTOR NEIDHART 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 any professional license or reinstatement of any professional license. Further, DOCTOR NEIDHART 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

17. Any violation of Paragraph 6 or Paragraph 7 of this CONSENT AGREEMENT shall constitute grounds to revoke or permanently revoke DOCTOR NEIDHART's certificate. DOCTOR NEIDHART 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, revoke or permanently revoke DOCTOR NEIDHART's certificate based on other violations of this CONSENT AGREEMENT;
18. DOCTOR NEIDHART AGREES that if any declaration or report required by this CONSENT AGREEMENT is not received in the BOARD's offices on or before its due date, DOCTOR NEIDHART 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;
19. DOCTOR NEIDHART 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 8 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; and,

20. DOCTOR NEIDHART AGREES that if he fails to participate in an alcohol and drug rehabilitation program at least as frequently as required by Paragraph 11 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.

If, in the discretion of the Secretary and Supervising Member of the BOARD, DOCTOR NEIDHART 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.

If the Secretary and Supervising Member of the BOARD determine that there is clear and convincing evidence that DOCTOR NEIDHART has violated any term, condition or limitation of this CONSENT AGREEMENT, DOCTOR NEIDHART 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 purposes of initiating a summary suspension pursuant to Section 4731.22(G), Ohio Revised Code.

DURATION/MODIFICATION OF TERMS

This CONSENT AGREEMENT shall remain in force for a minimum of five (5) years prior to any request for termination of said CONSENT AGREEMENT. Otherwise, the above described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

ACKNOWLEDGMENTS/LIABILITY RELEASE

DOCTOR NEIDHART 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.

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

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

EFFECTIVE DATE

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

Jeffrey D. Neidhart
JEFFREY D. NEIDHART, M.D.

November 3, 99
DATE

Anand G. Garg
ANAND G. GARG, M.D.
Secretary

11-18-99
DATE

Raymond J. Albert / T.M.W.
RAYMOND J. ALBERT
Supervising Member
Per telephone call.

11-19-99
DATE

Anne Strait
ANNE B. STRAIT, ESQ.
Assistant Attorney General

11/22/99
DATE

STEP I
CONSENT AGREEMENT
BETWEEN
JEFFREY D. NEIDHART, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

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

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

BASIS FOR ACTION

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

- A. THE STATE MEDICAL BOARD OF OHIO is empowered by Sections 4731.22(B) (22) and (26), Ohio Revised Code, to limit, revoke, or suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for “the limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, the imposition of probation by that authority, or the issuance of an order of censure or other reprimand by that authority for any reason, other than nonpayment of fees,” and “impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.”
- B. THE STATE MEDICAL BOARD OF OHIO enters into this CONSENT AGREEMENT in lieu of formal proceedings based upon the violations of Sections 4731.22(B) (22) and (26), Ohio Revised Code, as set forth in Paragraphs E and F, below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement.

- C. JEFFREY D. NEIDHART, M.D., is licensed to practice medicine and surgery in the State of Ohio.
- D. JEFFREY D. NEIDHART, M.D., STATES that he is not licensed to practice medicine and surgery in any other state or jurisdiction.
- E. DOCTOR NEIDHART ADMITS that he suffers from polysubstance dependence.

DOCTOR NEIDHART further ADMITS that his history includes the use of marijuana, alcohol, hallucinogens, cocaine and crack cocaine.

DOCTOR NEIDHART further ADMITS that he received assessment and treatment for chemical dependency, including four days of inpatient treatment, at Park Medical Center, a STATE MEDICAL BOARD OF OHIO approved treatment provider, beginning on or about May 15, 1998, and continuing through early July 1998; that he received a seventy-two hour inpatient assessment for chemical dependency at Talbot-Marsh Recovery Campus, a STATE MEDICAL BOARD OF OHIO approved treatment provider, from September 8 through September 11, 1998; and that he received a combination of inpatient and outpatient treatment for chemical dependency at the Center for Psychiatric Medicine, University of Alabama, from on or about December 14, 1998 through on or about February 19, 1999. DOCTOR NEIDHART further admits that he received psychiatric and psychological assessment and treatment from Richard Nockowitz, M.D., and Meral Crane, MA, LPCC, from March through October 1998; and psychiatric assessment from Sandra Frazier, M.D., on or about July 23, 1998.

- F. DOCTOR NEIDHART further admits that the Alabama State Board of Medical Examiners, on August 19, 1998, denied DOCTOR NEIDHART's application for medical licensure, and that that Board notified DOCTOR NEIDHART of the denial by letter dated August 25, 1998.
- G. DOCTOR NEIDHART further admits that in applying for renewal of his Ohio certificate to practice medicine and surgery on September 15, 1998, he answered "No" to the question asking whether, at any time since signing his last renewal application, he had had any disciplinary action taken or initiated against him by any state licensing board other than the STATE MEDICAL BOARD OF OHIO. DOCTOR NEIDHART states that at the time he submitted his application, he believed that he was not required to report the Alabama denial.

THE STATE MEDICAL BOARD OF OHIO specifically makes no findings as to whether this response violates Section 4731.22, Ohio Revised Code. Nevertheless, THE STATE MEDICAL BOARD OF OHIO reserves the right to institute formal disciplinary proceedings regarding this allegation if DOCTOR NEIDHART violates any provision of this CONSENT AGREEMENT.

AGREED CONDITIONS

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

SUSPENSION OF CERTIFICATE

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

Sobriety

2. DOCTOR NEIDHART 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 NEIDHART's history of polysubstance dependence;
3. DOCTOR NEIDHART shall abstain completely from the use of alcohol;

Releases; Quarterly Declarations and Appearances

4. DOCTOR NEIDHART shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for DOCTOR NEIDHART's chemical dependency or psychiatric diagnoses, or for purposes of complying with this CONSENT AGREEMENT, whether such treatment or evaluation occurred before or after the effective date of this CONSENT AGREEMENT. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. DOCTOR NEIDHART further agrees to provide the BOARD written consent permitting any treatment

STEP I AGREEMENT

JEFFREY D. NEIDHART, M.D.

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provider or psychiatrist from whom he obtains treatment to notify the BOARD in the event he fails to agree to or comply with any treatment contract, aftercare contract, or psychiatric treatment plan. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this CONSENT AGREEMENT;

5. DOCTOR NEIDHART 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. Subsequent quarterly declarations must be received in the BOARD's offices on or before the first day of every third month;
6. DOCTOR NEIDHART 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 NEIDHART written notification of scheduled appearances, it is DOCTOR NEIDHART'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 NEIDHART shall immediately submit to the BOARD a written request to be notified of his next scheduled appearance;

Drug & Alcohol Screens; Supervising Physician

7. DOCTOR NEIDHART shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the BOARD. DOCTOR NEIDHART 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 NEIDHART shall submit to the BOARD for its prior approval the name of a supervising physician to whom DOCTOR NEIDHART 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 NEIDHART 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 those responsibilities;

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

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 NEIDHART's quarterly declaration. It is DOCTOR NEIDHART's responsibility to ensure that reports are timely submitted;

Psychiatric Treatment

8. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR NEIDHART shall submit to the BOARD for its prior approval the name and qualifications of a psychiatrist of his choice. Upon approval by the BOARD, DOCTOR NEIDHART shall undergo and continue psychiatric treatment bi-weekly, or as otherwise directed by the BOARD;

DOCTOR NEIDHART shall comply with his psychiatric treatment plan including taking medications as ordered and/or prescribed for his psychiatric disorder. DOCTOR NEIDHART shall ensure that psychiatric reports are

forwarded by his treating psychiatrist to the BOARD on a quarterly basis, or as otherwise directed by the BOARD. The psychiatric reports shall contain information describing DOCTOR NEIDHART's current treatment plan and any changes that have been made to the treatment plan since the prior report; DOCTOR NEIDHART's compliance with his treatment plan; DOCTOR NEIDHART's mental status; DOCTOR NEIDHART's progress in treatment; and results of any laboratory studies that have been conducted since the prior report.

DOCTOR NEIDHART shall ensure that his treating psychiatrist immediately notifies the Board of DOCTOR NEIDHART's failure to comply with his psychiatric treatment plan and/or any determination that DOCTOR NEIDHART is unable to practice due to his psychiatric disorder;

It is DOCTOR NEIDHART's responsibility to ensure that quarterly reports are received in the BOARD's offices no later than the due date for DOCTOR NEIDHART's quarterly declaration;

Rehabilitation Program

9. DOCTOR NEIDHART shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or Caduceus, no less than four (4) times per week. One of the meeting requirements shall be satisfied on a bi-weekly basis by DOCTOR NEIDHART's participation in psychiatric treatment. Substitution of any other specific program must receive prior BOARD approval;

DOCTOR NEIDHART shall submit acceptable documentary evidence of continuing compliance with this program with each quarterly declaration required under Paragraph 5 of this CONSENT AGREEMENT;

CONDITIONS FOR REINSTATEMENT

10. The BOARD shall not consider reinstatement of DOCTOR NEIDHART's certificate to practice medicine and surgery unless and until all of the following conditions are met:
 - a. DOCTOR NEIDHART shall submit an application for reinstatement, accompanied by appropriate fees, if any;

- b. DOCTOR NEIDHART shall demonstrate to the satisfaction of the BOARD that he can resume practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
- i. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that DOCTOR NEIDHART has successfully completed any required inpatient treatment;
 - ii. Evidence of continuing full compliance with an aftercare contract, consent agreement, and psychiatric treatment plan;
 - iii. Three written reports indicating that DOCTOR NEIDHART's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care;

One report shall be made by an individual or provider approved by the BOARD under Section 4731.25, Ohio Revised Code, for making such assessments. Prior to the assessment, DOCTOR NEIDHART shall provide the evaluator with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Consent Agreement. The report from the evaluator shall include any recommendations for treatment, monitoring, or supervision of DOCTOR NEIDHART, and shall describe the basis for the evaluator's determination;

Two reports shall be made by psychiatrists who have conducted psychiatric examinations of DOCTOR NEIDHART. DOCTOR NEIDHART shall submit to the Board for its prior approval the names and qualifications of psychiatrists of his choice. DOCTOR NEIDHART may submit the name of his current treating psychiatrist for Board consideration. Prior to the examination, DOCTOR NEIDHART shall provide the psychiatrists with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this CONSENT AGREEMENT. The report from the evaluating psychiatrists shall include the psychiatrists' diagnoses and conclusions; any recommendations for care, counseling, and treatment for

DOCTOR NEIDHART's psychiatric diagnoses; and the bases for the psychiatrists' determinations.

- c. DOCTOR NEIDHART shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the BOARD or, if the BOARD and DOCTOR NEIDHART are unable to agree on the terms of a written consent agreement, then DOCTOR NEIDHART further agrees to abide by any terms, conditions and limitations imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Ohio Revised Code.

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

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

REQUIRED REPORTING BY LICENSEE

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

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

The above described terms, conditions and limitations may be amended or terminated in writing at any time upon the agreement of both parties.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the BOARD, DOCTOR NEIDHART appears to have violated or breached any term or condition of this 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

DOCTOR NEIDHART 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.

DOCTOR NEIDHART 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.

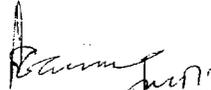
Further, this information may be reported to appropriate organizations, data banks and governmental bodies.

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.



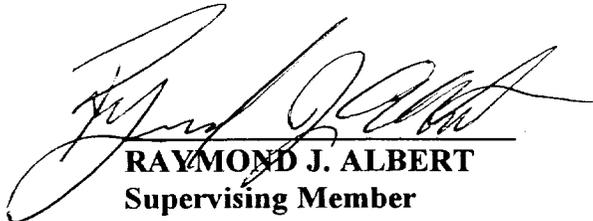
JEFFREY D. NEIDHART, M.D.



ANAND G. GARG, M.D.
Secretary

April 10, 1999
DATE

4/14/99
DATE



RAYMOND J. ALBERT
Supervising Member

4/14/99
DATE



ANNE B. STRAIT, ESQ.
Assistant Attorney General

4/14/99
DATE