



State Medical Board of Ohio

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

October 11, 2006

Philip Gary Wagman, M.D.
P.O. Box 5529
New Castle, PA 16105

Dear Dr. Wagman:

Please find enclosed a certified copy of the Findings, Order and Journal Entry approved and confirmed by the State Medical Board meeting in regular session on October 11, 2006.

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 an original Notice of Appeal with the State Medical Board of Ohio and a copy with 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 of the Ohio Revised Code.

Very truly yours,

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. 7003 0500 0002 4332 6340
RETURN RECEIPT REQUESTED

Mailed 10-17-06

Philip Gary Wagman, M.D.
Page 2

Duplicate Mailing:

Inmate No. GS6408
Pennsylvania State Correctional Institution – Albion
Albion, PA 16475-0001

CERTIFIED MAIL RECEIPT NO. 7003 0500 0002 4332 6357
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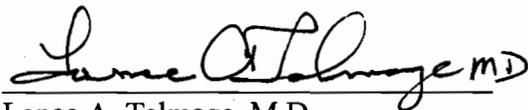
Alex Lindsay, Esq.
Lindsay Law Firm
128 South Main Street
Butler, PA 16001

CERTIFIED MAIL RECEIPT NO. 7003 0500 0002 4332 6364
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CERTIFICATION

I hereby certify that the attached copy of the Findings, Order and Journal Entry approved by the State Medical Board, meeting in regular session on October 11, 2006, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of Philip Gary Wagman, M.D., as it appears in the Journal of the State Medical Board of Ohio.

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



Lance A. Talmage, M.D.
Secretary

(SEAL)

October 11, 2006

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

PHILIP GARY WAGMAN, M.D.

*

FINDINGS, ORDER AND JOURNAL ENTRY

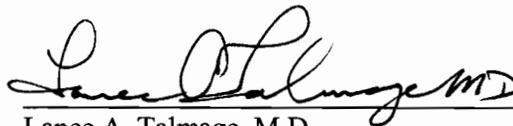
By letter dated August 9, 2006, notice was given to Philip Gary Wagman, M.D. that the State Medical Board intended to consider disciplinary action regarding his license to practice medicine and surgery in the State of Ohio, and that he was entitled to a hearing if such hearing was requested within thirty (30) days of the mailing of said notice. In accordance with Section 119.07, Ohio Revised Code, said notice was sent via certified mail, return receipt requested, to the address of record of Dr. Wagman, that being P.O. Box 5529, New Castle, Pennsylvania 16105. A duplicate copy of the notice was sent via certified mail, return receipt requested to Inmate No. GS6408, Pennsylvania State Correctional Institution – Albion, Albion, Pennsylvania 16475-0001.

Signed certified mail receipts were returned to the Medical Board offices documenting proper service of the notice. However, no hearing request has been received from Dr. Wagman and more than thirty (30) days have now elapsed since the mailing of that notice.

WHEREFORE, having reviewed the August 9, 2006, Notice of Opportunity for Hearing, including the Information, Verdict, and Sentence of the Court of Common Pleas, Lawrence County, Pennsylvania in Commonwealth of Pennsylvania vs. Philip Wagman, and the May 19, 2006, Notice and Order of Automatic Suspension, and July 6, 2006, Adjudication and Order of the Pennsylvania State Board of Medicine, the affidavit of Debra L. Jones, Continuing Medical Education and Renewal Officer, which are attached hereto and incorporated herein, the Board hereby finds that there is reliable, probative and substantial evidence to support the allegations as set forth in the notice of opportunity for hearing issued on August 9, 2006. Further, the Board hereby ORDERS that the license of Philip Gary Wagman, M.D., to practice medicine and surgery in the State of Ohio be PERMANENTLY REVOKED.

This Order shall become effective IMMEDIATELY.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 11th day of October 2006 and the original thereof shall be kept with said Journal.



Lance A. Talmage, M.D.
Secretary

(SEAL)

October 11, 2006
Date

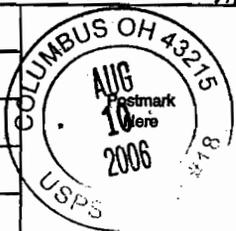
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Sent To
Philip Gary Wagman, M.D.
P.O. Box 5529
New Castle, PA 16105

PS Form 3800, June 2002 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- I am returning this mail to the sender because it is undeliverable.
- I am returning this mail to the sender because it is undeliverable and I have no other address for the sender.
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Philip Gary Wagman, M.D.
P.O. Box 5529
New Castle, PA 16105

COMPLETE THIS SECTION ON DELIVERY

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 Date: _____
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 City: _____ State: _____ Zip: _____

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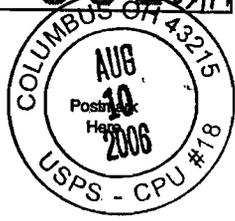
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Certified Fee	2.40
Return Receipt Fee (Endorsement Required)	1.85
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 7.04



Sent To **Philip Gary Wagman, M.D.**
Inmate No. GS6408
 Street, Ap or PO Box **Pennsylvania State Correctional Institution-Albion**
 City, State **Albion, Pennsylvania 16475-0001**

PS Form 3800, February 2004 Instructions

SENDER: COMPLETE THIS SECTION

1. The recipient must be a resident of the United States, Puerto Rico, or a U.S. Possession.
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 3. All items must be properly sealed and secured.
 4. All items must be properly labeled and marked.
 5. All items must be properly packaged and secured.

Philip Gary Wagman, M.D.
Inmate No. GS6408
Pennsylvania State Correctional Institution-Albion
Albion, Pennsylvania 16475-0001

COMPLETE THIS SECTION ON DELIVERY

1. Signature of recipient
 2. Signature of agent
 3. Signature of addressee
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 9. Signature of post office clerk
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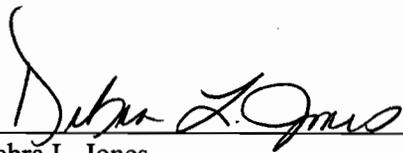
The State of Ohio
Franklin County, SS

I, Debra L. Jones, being duly cautioned and sworn, do hereby depose and say that:

- 1) I am employed by the State Medical Board of Ohio (hereinafter, "The Board")
- 2) I serve the Board in the position of Continuing Medical Education and Renewal Officer.
- 3) In such position I am the responsible custodian of all public licensee records maintained by the Board pertaining to individuals who have received certificates issued pursuant to Chapter 4731., Ohio Revised Code.
- 4) I have this day carefully examined the records of the Board pertaining to Philip Gary Wagman, M.D.
- 5) Based on such examination, I have found the address of record of Dr. Wagman at the time the Board issued a Notice of Immediate Suspension and Opportunity for Hearing on August 9, 2006, was:

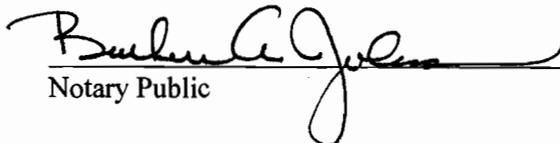
P.O. Box 5529
New Castle, Pennsylvania 16105

- 6) Further, Affiant Sayeth Naught.



Debra L. Jones
Continuing Medical Education and Renewal
Officer

Sworn to and signed before me, Barbara A. Jacobs, Notary Public,
this 13th day of September, 2006.



Notary Public

BARBARA ANN JACOBS, ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date.
Section 147.03 R.C.



State Medical Board of Ohio

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

August 9, 2006

Philip Gary Wagman, M.D.
P.O. Box 5529
New Castle, Pennsylvania 16105

Dear Doctor Wagman:

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

- (1) On or about May 10, 2000, based upon your violation of Sections 4731.22(B)(3), (B)(10), (B)(11), (B)(19) and (B)(26), Ohio Revised Code, the Board ratified a Step I Consent Agreement which suspended your certificate to practice medicine and surgery in Ohio [Ohio License] for an indefinite period of time, but not less than six months. On or about April 11, 2001, the Board ratified a Step II Consent Agreement by which your Ohio License was reinstated, subject to probationary terms, conditions and limitations for a minimum period of five years.

In an ensuing Order [Board Order], on or about February 13, 2002, based upon violations of Section 4731.22(B)(15), Ohio Revised Code, the Board permanently revoked your Ohio License; stayed the revocation; and suspended your certificate to practice medicine and surgery for an indefinite period of time, but not less than six months. On or about August 15, 2002, your Ohio License was reinstated, subject to the probationary terms, conditions and limitations of the Board Order for a minimum period of five years.

- (2) On or about May 10, 2006, in the Court of Common Pleas, Criminal Division, Lawrence County, Pennsylvania, you were found guilty of the felony counts for the violations of Pennsylvania Statutes as indicated:

Counts 1-19 The [Pennsylvania] Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. §780-113(a)(14)(iii).

Count 31 Conspiracy To Violate The Controlled Substance, Drug, Device, and Cosmetic Act, 18 Pa. C.S.A. §903(a)(1).

Count 33 Flight to Avoid Apprehension, 18 Pa. C.S.A. §5126(a).

On or about July 14, 2006, based upon the above findings of guilt, the Court sentenced you to serve an aggregate term of incarceration of not less than 19 years or more than 45 years in a State Correctional Facility and to pay a fine in excess of \$835,000.

Mailed 8-10-06

The conduct underlying the above findings of guilt is provided in greater detail in the Information, Verdict and Sentence, which are attached hereto and incorporated herein.

- (3) On or about May 19, 2006, the Pennsylvania State Board of Medicine [Pennsylvania Board] filed a "Notice and Order of Automatic Suspension," based upon the above convictions, suspending your Pennsylvania license for at least 10 years. On or about July 6, 2006, the Pennsylvania Board affirmed said suspension and memorialized the same in the "Adjudication and Order" and the "Opinion and Order Affirming Automatic Suspension of May 19, 2006," copies of which, along with the "Notice and Order of Automatic Suspension," are attached hereto and incorporated herein.

The judicial findings of guilt, as alleged in paragraph (2) above, individually and/or collectively, constitute "[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug," as those clauses are used in Section 4731.22(B)(3), Ohio Revised Code.

Further, the judicial findings of guilt as alleged in paragraph (2) above, individually and/or collectively, constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

Further, the Pennsylvania Board "Notice and Order of Automatic Suspension," "Adjudication and Order," and the "Opinion and Order Affirming Automatic Suspension of May 19, 2006," as alleged in paragraph (3) above, individually and/or collectively, constitute "[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.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand you or place you on probation.

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT/blt
Enclosures

CERTIFIED MAIL # 7004 2510 0006 9801 7428
RETURN RECEIPT REQUESTED

Duplicate Mailing:

Inmate No. GS6408
Pennsylvania State Correctional Institution-Albion
Albion, Pennsylvania 16475-0001

CERTIFIED MAIL # 7004 2510 0006 9801 7435
RETURN RECEIPT REQUESTED

Alex Lindsay, Esq.
Lindsay Law Firm
128 South Main Street
Butler, Pennsylvania 16001

CERTIFIED MAIL # 7003 0500 0002 4333 3447
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STATE MEDICAL BOARD
OF OHIO

2006 JUL 24 A 9: 57

COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS
 VS. : LAWRENCE COUNTY, PENNSYLVANIA
 PHILIP WAGMAN : CRIMINAL DIVISION
 : NO. 1236 OF 2004
 : OTN: K069852-6

SENTENCE

NOW THIS 14th day of July, 2006, the Defendant being before the Court this date, for sentencing following verdicts of guilty by a jury to the charges of Violation Of The Controlled Substance, Drug, Device and Cosmetic Act, nineteen (19) Counts, all unclassified Felonies, in violation of 35 P.S. §780-113(a)(14)(iii), Conspiracy To Violate The Controlled Substance, Drug, Device and Cosmetic Act, an unclassified Felony, in violation of 18 Pa.C.S.A. §903(a)(1) and Flight To Avoid Apprehension, a Felony of the third degree, in violation of 18 Pa.C.S.A. §5126(a), with all parties appearing, the Commonwealth of Pennsylvania, represented by counsel, Jeffrey S. Baxter, Esquire, Senior Deputy Attorney General for the Commonwealth of Pennsylvania and Diane Shaffer, Esquire, Assistant District Attorney for the County of Lawrence, and the Defendant, Philip Wagman, represented by counsel, Alexander H. Lindsay, Jr., Esquire and after a sentencing hearing held wherein all parties and any witnesses called by any party were given the opportunity to make a statement on that party's behalf and to present information or argument relative to sentencing, and the Court considering all of the testimony, statements, information or argument presented as well as the evidence of the circumstances of the offense and the sentencing guidelines, the Court finds that:

(1) There is an undue risk that during a period of probation or partial confinement only, the Defendant will commit another crime.

53RD
JUDICIAL
DISTRICT

LAWRENCE COUNTY
PENNSYLVANIA

FILED ORIGINAL
2006 JUL 20 A 8: 49

HELEN I. MORGAN
PRO AND CLERK

(2) The Defendant is in need of correctional treatment that can be provided most effectively by commitment to a correctional facility.

(3) A lesser sentence would depreciate the seriousness of the crime.

(4) The within sentences are mandatory minimum sentences set forth by statute.

Terms of Sentence

OFFENSE:

**VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND
COSTMETIC ACT – 19 COUNTS, IN VIOLATION OF 35 P.S. §780-113(a)(14)(iii)**

THEREFORE, IT IS THE SENTENCE OF THE COURT ON:

COUNT 1

The Defendant is sentenced to a term of incarceration of not less than five (5) years nor more than fifteen (15) years, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for one hundred fourteen (114) days already served, the commencement date for this sentence is March 23, 2006. The Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence.

The Defendant is sentenced to pay a fine in the sum of twenty-five thousand dollars (\$25,000.00), which fine shall be paid through the Adult Probation Office of Lawrence County.

COUNT 5

The Defendant is sentenced to a term of incarceration of not less than seven (7) years nor more than fifteen (15) years, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for one hundred fourteen (114)

days already served. The Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a consecutive basis with the sentence imposed this date on Count 1.

The Defendant is sentenced to pay a fine in the sum of fifty thousand dollars (\$50,000.00), which fine shall be paid through the Adult Probation Office of Lawrence County.

COUNT 6

The Defendant is sentenced to a term of incarceration of not less than seven (7) years nor more than fifteen (15) years, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for one hundred fourteen (114) days already served. The Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a consecutive basis with the sentence imposed this date on Count 1 and 5.

The Defendant is sentenced to pay a fine in the sum of fifty thousand dollars (\$50,000.00), which fine shall be paid through the Adult Probation Office of Lawrence County.

COUNT 2

The Defendant is sentenced to a term of incarceration of not less than seven (7) years nor more than fifteen (15) years, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for one hundred fourteen (114) days already served, the commencement date for this sentence being March 23, 2006. The

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STATE MEDICAL BOARD
OF OHIO

Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a concurrent basis with the sentences imposed this date on Count 1, 5 and 6.

The Defendant is sentenced to pay a fine in the sum of fifty thousand dollars (\$50,000.00), which fine shall be paid through the Adult Probation Office of Lawrence County.

COUNT 3

The Defendant is sentenced to a term of incarceration of not less than five (5) years nor more than fifteen (15) years, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for one hundred fourteen (114) days already served, the commencement date for this sentence being March 23, 2006. The Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a concurrent basis with the sentences imposed this date on Count 1, Count 2, Count 5 and Count 6.

The Defendant is sentenced to pay a fine in the sum of thirty thousand dollars (\$30,000.00), which fine shall be paid through the Adult Probation Office of Lawrence County.

COUNT 4

The Defendant is sentenced to a term of incarceration of not less than five (5) years nor more than fifteen (15) years, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for one hundred fourteen (114) days already

served, the commencement date for this sentence being March 23, 2006. The Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a concurrent basis with the sentences imposed this date on Counts 1, 2, 3, 5 and 6.

The Defendant is sentenced to pay a fine in the sum of thirty thousand dollars (\$30,000.00), which fine shall be paid through the Adult Probation Office of Lawrence County.

COUNT 7

The Defendant is sentenced to a term of incarceration of not less than five (5) years nor more than fifteen (15) years, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for one hundred fourteen (114) days already served, the commencement date for this sentence being March 23, 2006. The Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a concurrent basis with Counts 1 through 6 inclusive.

The Defendant is sentenced to pay a fine in the sum of thirty thousand dollars (\$30,000.00), which fine shall be paid through the Adult Probation Office of Lawrence County.

COUNT 8

The Defendant is sentenced to a term of incarceration of not less than seven (7) years nor more than fifteen (15) years, which sentence is to be served in a State

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STATE MEDICAL BOARD
OF OHIO

Correctional Facility with the Defendant being given credit for one hundred fourteen (114) days already served, the commencement date for this sentence being March 23, 2006. The Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a concurrent basis with Counts 1 through 7 inclusive.

The Defendant is sentenced to pay a fine in the sum of fifty thousand dollars (\$50,000.00), which fine shall be paid through the Adult Probation Office of Lawrence County.

COUNT 9

The Defendant is sentenced to a term of incarceration of not less than seven (7) years nor more than fifteen (15) years, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for one hundred fourteen (114) days already served, the commencement date for this sentence being March 23, 2006. The Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a concurrent basis with Counts 1 through 8 inclusive.

The Defendant is sentenced to pay a fine in the sum of fifty thousand dollars (\$50,000.00), which fine shall be paid through the Adult Probation Office of Lawrence County.

STATE MEDICAL BOARD
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COUNT 10

The Defendant is sentenced to a term of incarceration of not less than three (3) years nor more than fifteen (15) years, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for one hundred fourteen (114) days already served, the commencement date for this sentence being March 23, 2006. The Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a concurrent basis with Counts 1 through 9 inclusive.

The Defendant is sentenced to pay a fine in the sum of ten thousand dollars (\$10,000.00), which fine shall be paid through the Adult Probation Office of Lawrence County.

COUNT 11

The Defendant is sentenced to a term of incarceration of not less than seven (7) years nor more than fifteen (15) years, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for one hundred fourteen (114) days already served, the commencement date for this sentence being March 23, 2006. The Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a concurrent basis with Counts 1 through 10 inclusive.

The Defendant is sentenced to pay a fine in the sum of fifty thousand dollars (\$50,000.00), which fine shall be paid through the Adult Probation Office of Lawrence

County.

COUNT 12

The Defendant is sentenced to a term of incarceration of not less than seven (7) years nor more than fifteen (15) years, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for one hundred fourteen (114) days already served, the commencement date for this sentence being March 23, 2006. The Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a concurrent basis with Counts 1 through 11 inclusive.

The Defendant is sentenced to pay a fine in the sum of fifty thousand dollars (\$50,000.00), which fine shall be paid through the Adult Probation Office of Lawrence County.

COUNT 13

The Defendant is sentenced to a term of incarceration of not less than five (5) years nor more than fifteen (15) years, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for one hundred fourteen (114) days already served, the commencement date for this sentence being March 23, 2006. The Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a concurrent basis with Counts 1 through 12 inclusive.

The Defendant is sentenced to pay a fine in the sum of thirty thousand dollars

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STATE MEDICAL BOARD
OF OHIO

(\$30,000.00), which fine shall be paid through the Adult Probation Office of Lawrence County.

COUNT 14

The Defendant is sentenced to a term of incarceration of not less than five (5) years nor more than fifteen (15) years, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for one hundred fourteen (114) days already served, the commencement date for this sentence being March 23, 2006. The Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a concurrent basis with Counts 1 through 13 inclusive.

The Defendant is sentenced to pay a fine in the sum of thirty thousand dollars (\$30,000.00), which fine shall be paid through the Adult Probation Office of Lawrence County.

COUNT 15

The Defendant is sentenced to a term of incarceration of not less than seven (7) years nor more than fifteen (15) years, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for one hundred fourteen (114) days already served, the commencement date for this sentence being March 23, 2006. The Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a concurrent basis with Counts 1 through

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STATE MEDICAL BOARD
OF OHIO

14 inclusive.

The Defendant is sentenced to pay a fine in the sum of fifty thousand dollars (\$50,000.00), which fine shall be paid through the Adult Probation Office of Lawrence County.

COUNT 16

The Defendant is sentenced to a term of incarceration of not less than seven (7) years nor more than fifteen (15) years, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for one hundred fourteen (114) days already served, the commencement date for this sentence being March 23, 2006. The Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a concurrent basis with Counts 1 through 15 inclusive.

The Defendant is sentenced to pay a fine in the sum of fifty thousand dollars (\$50,000.00), which fine shall be paid through the Adult Probation Office of Lawrence County.

COUNT 17

The Defendant is sentenced to a term of incarceration of not less than seven (7) years nor more than fifteen (15) years, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for one hundred fourteen (114) days already served, the commencement date for this sentence being March 23, 2006. The

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STATE MEDICAL BOARD
OF OHIO

Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a concurrent basis with Counts 1 through 16 inclusive.

The Defendant is sentenced to pay a fine in the sum of fifty thousand dollars (\$50,000.00), which fine shall be paid through the Adult Probation Office of Lawrence County.

COUNT 18

The Defendant is sentenced to a term of incarceration of not less than seven (7) years nor more than fifteen (15) years, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for one hundred fourteen (114) days already served, the commencement date for this sentence being March 23, 2006. The Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a concurrent basis with Counts 1 through 17 inclusive.

The Defendant is sentenced to pay a fine in the sum of fifty thousand dollars (\$50,000.00), which fine shall be paid through the Adult Probation Office of Lawrence County.

COUNT 19

The Defendant is sentenced to a term of incarceration of not less than seven (7)

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years nor more than fifteen (15) years, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for one hundred fourteen (114) days already served, the commencement date for this sentence being March 23, 2006. The Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a concurrent basis with Counts 1 through 18 inclusive.

The Defendant is sentenced to pay a fine in the sum of fifty thousand dollars (\$50,000.00), which fine shall be paid through the Adult Probation Office of Lawrence County.

OFFENSE:

CONSPIRACY TO VIOLATE THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, IN VIOLATION OF 18 PA.C.S.A. §903(a)(1)

THEREFORE, IT IS THE SENTENCE OF THE COURT that the Defendant is sentenced to a term of incarceration of not less than seven (7) years nor more than fifteen (15) years, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for ten (10) days already served, the commencement date for this sentence being March 23, 2006. The Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a concurrent basis with Counts 1 through 19 inclusive, on the charge of Violation Of The Controlled Substance, Drug, Device and Cosmetic Act.

The Defendant is sentenced to pay a fine in the sum of fifty thousand dollars (\$50,000.00), which fine shall be paid through the Adult Probation Office of Lawrence County.

OFFENSE:

**FLIGHT TO AVOID APPREHENSION, IN VIOLATION OF
18 PA. C.S.A. §5126(a)**

THEREFORE, IT IS THE SENTENCE OF THE COURT that the Defendant is sentenced to a term of incarceration of not less than nine (9) months nor more than twenty-four (24) months, which sentence is to be served in a State Correctional Facility with the Defendant being given credit for one hundred fourteen (114) days already served, the commencement date for this sentence being March 23, 2006. The Sheriff of Lawrence County shall transport the Defendant to Albion State Correctional Facility or such other appropriate state institution for the Defendant to commence serving his sentence. This sentence shall be served on a concurrent basis with Counts 1 through 19 inclusive and the charge of Conspiracy To Violate The Controlled Substance, Drug, Device and Cosmetic Act.

Costs of Prosecution

The Defendant shall pay the costs of prosecution in money or alternatively in community service as directed by the Adult Probation Office, including the payment of the sum of twenty-five dollars (\$25.00) for the criminal record search fee which shall be in addition to all other costs of prosecution and fees. In addition to all other costs of prosecution, the Defendant shall pay the investigative fees incurred by the Commonwealth of Pennsylvania during the course of said investigation, those fees being the sum of

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seventeen thousand six hundred four and 71/100 dollars (\$17,604.71), less any amounts paid by the Co-Defendants in this case.

The Defendant is assessed the mandatory cost of one hundred dollars (\$100.00) pursuant to 18 Pa. C.S.A § 7508.1(B), under the Substance Abuse Education and Demand Reduction Fund, on any appropriate Count.

DNA Sampling

The Defendant shall undergo a DNA sampling pursuant to the DNA Detection of Sexual and Violent Offenders Act, Act 57 of 2002, and the blood of the Defendant shall be drawn or any other type of DNA sample taken by the appropriate authority upon the commencement of Defendant's sentence. The Defendant shall not be released from this sentence until the blood or other DNA sample of the Defendant has been drawn for the DNA Sampling.

The Defendant shall pay any costs associated with the DNA Sampling, if applicable.

Bond

The Defendant shall post bond in the amount of one dollar (\$1.00) as surety in compliance with the terms and conditions of his sentence.

Rescission of Bench Warrant

All Bench Warrants or Orders of Attachment for the Defendant previously issued on this case are hereby RESCINDED.

Appeal Rights

The Defendant has the right to first move this Court challenging the validity of the jury verdicts and to file a written post-sentence motion and these motions must be in writing and filed within ten (10) days of this date or the right will be lost.

The Defendant is further advised that the Court shall decide a post-sentence motion which is filed, within one hundred twenty (120) days of the filing of the motion.

If the Court fails to decide the motion within one hundred twenty (120) days, or to grant an extension as provided by law, the motion shall be deemed denied by operation of law.

The Defendant is further advised that he has the right of appeal to the appellate courts from this sentence, which appeal must be in writing, and such appeal must be taken within thirty (30) days of the entry of the Order denying a written post-sentence motion, within thirty (30) days of the entry of the Order denying the motion by operation of law, or within thirty (30) days of the entry of the Order permitting the withdrawal of the motion filed by the Defendant or if no motion is filed, then within thirty (30) days of this date or the right of appeal will be lost.

The Defendant is further informed he has the right to legal counsel in filing and pursuing such appeal and such motion and if he is financially unable to employ said counsel for said purposes, he may apply to the Office of the Public Defender of Lawrence County and if he meets the required standard of indigency, counsel for these purposes will be provided without cost to him and without the payment of court costs. If the Defendant is currently represented by privately retained counsel, Defendant has the right to proceed with retained counsel unless the Court grants leave for counsel to withdraw from the case.

The Defendant is also advised that issues raised before or during trial shall be deemed preserved for appeal whether or not the Defendant elects to file a post-sentence motion.

The Defendant is also advised that he has a qualified right to bail under Pa.R.Crim.P.

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OF OHIO

521(B) while pursuing any such appeal or motion.

Sentencing Guideline Form

The District Attorney of Lawrence County is directed to, within twenty (20) days of sentencing the Defendant, to accurately and properly complete and deliver to the Sentencing Court the "Guideline Sentencing Form" promulgated by the "Pennsylvania Commission on Sentencing", under 204 Pa. Code Ch. 303, mandated by 42 Pa. C.S.A. §2154, and prescribed by 42 Pa. C.S.A. §9721(b), and to make proper and timely disposition of the Form, including filing the Form of record within thirty (30) days of sentencing and forwarding a copy thereof to the Pennsylvania Commission on Sentencing.

Service of Order

The Clerk of Courts is directed to serve a copy of this Order of Court upon the Office of Attorney General, the District Attorney of Lawrence County, counsel for the Defendant, Carmen F. Lamancusa, Esquire, the Lawrence County Correctional Facility, the Adult Probation Office and the Office of the District Court Administrator of Lawrence County.

BY THE COURT:

J. Craig Cox J.
J. Craig Cox, Judge

dm

STATE MEDICAL BOARD
OF OHIO
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JUDICIAL
DISTRICT

LAWRENCE COUNTY
PENNSYLVANIA

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HELEN I. MORGAN
PRO AND CLERK

Count 5 - Violation of the Controlled Substance, Drug, Device and Cosmetic Act
 (L [REDACTED] C [REDACTED])
 Weight of Controlled Substance - Oxycontin
 Weight of Controlled Substance - Endocet
 Weight of Controlled Substance - Percocet >

<u>GUILTY</u>	
146	<u>GR.</u>
481	<u>GR.</u>

Count 6 - Violation of the Controlled Substance, Drug, Device and Cosmetic Act
 (W [REDACTED] C [REDACTED])
 Weight of Controlled Substance - Oxycontin
 Weight of Controlled Substance - Endocet

<u>GUILTY</u>	
170	<u>GR.</u>
693	<u>GR.</u>

Count 7 - Violation of the Controlled Substance, Drug, Device and Cosmetic Act
 (R [REDACTED] D [REDACTED])
 Weight of Controlled Substance - Oxycontin

<u>GUILTY</u>	
17	<u>GR.</u>

Count 8 - Violation of the Controlled Substance, Drug, Device and Cosmetic Act
 (O [REDACTED] G [REDACTED])
 Weight of Controlled Substance - Oxycontin
 Weight of Controlled Substance - Endocet

<u>GUILTY</u>	
13	<u>GR.</u>
614	<u>GR.</u>

Count 9 - Violation of the Controlled Substance, Drug, Device and Cosmetic Act
 (D [REDACTED] J [REDACTED])
 Weight of Controlled Substance - Endocet

<u>GUILTY</u>	
1069	<u>GR.</u>

Count 10 - Violation of the Controlled Substance, Drug, Device and Cosmetic Act
 (M [REDACTED] L [REDACTED])
 Weight of Controlled Substance - Oxycontin

<u>GUILTY</u>	
3	<u>GR.</u>

Count 11 - Violation of the Controlled Substance, Drug, Device and Cosmetic Act
 (J [REDACTED] L [REDACTED])
 Weight of Controlled Substance - Oxycontin
 Weight of Controlled Substance - Oxycodone
 Weight of Controlled Substance - Endocet

<u>GUILTY</u>	
43	<u>GR.</u>
20	<u>GR.</u>
119	<u>GR.</u>

Count 12 - Violation of the Controlled Substance, Drug, Device and Cosmetic Act
 (L [REDACTED] N [REDACTED])
 Weight of Controlled Substance - Oxycodone
 Weight of Controlled Substance - Endocet

<u>GUILTY</u>	
79	<u>GR.</u>
218	<u>GR.</u>

Count 13 - Violation of the Controlled Substance, Drug, Device and Cosmetic Act
 (J [REDACTED] R [REDACTED])
 Weight of Controlled Substance - Oxycontin
 Weight of Controlled Substance - Oxycodone

<u>GUILTY</u>	
51	<u>GR.</u>
1	<u>GR.</u>

Count 14 - Violation of the Controlled Substance, Drug, Device and Cosmetic Act
 (J [REDACTED] S [REDACTED])
 Weight of Controlled Substance - Oxycontin
 Weight of Controlled Substance - Percocet
 Weight of Controlled Substance - Endocet >

<u>GUILTY</u>	
8	<u>GR.</u>
30	<u>GR.</u>

- Count 15 - Violation of the Controlled Substance, Drug, Device and Cosmetic Act
 (A [REDACTED] S [REDACTED])
 Weight of Controlled Substance - Endocet 6UILTY
119 6R
- Count 16 - Violation of the Controlled Substance, Drug, Device and Cosmetic Act
 (A [REDACTED] V [REDACTED])
 Weight of Controlled Substance - Oxycontin 6UILTY
376 6R
- Count 17 - Violation of the Controlled Substance, Drug, Device and Cosmetic Act
 (K [REDACTED] W [REDACTED])
 Weight of Controlled Substance - Oxycontin 6UILTY
2 6R.
 Weight of Controlled Substance - Endocet 139 6R.
- Count 18 - Violation of the Controlled Substance, Drug, Device and Cosmetic Act
 (R [REDACTED] W [REDACTED])
 Weight of Controlled Substance - Oxycontin 6UILTY
42 6R.
 Weight of Controlled Substance - Endocet 238 6R
- Count 19 - Violation of the Controlled Substance, Drug, Device and Cosmetic Act
 (F [REDACTED] Z [REDACTED])
 Weight of Controlled Substance - Endocet 6UILTY
218 6R
- Count 20 - Fraud and Abuse Control Provider Prohibited Acts
 (B [REDACTED] A [REDACTED]) NOT GUILTY
- Count 21 - Fraud and Abuse Control Provider Prohibited Acts
 (H [REDACTED] C [REDACTED]) NOT GUILTY
- Count 22 - Fraud and Abuse Control Provider Prohibited Acts
 (R [REDACTED] D [REDACTED]) NOT GUILTY
- Count 23 - Fraud and Abuse Control Provider Prohibited Acts
 (C [REDACTED] G [REDACTED]) NOT GUILTY
- Count 24 - Fraud and Abuse Control Provider Prohibited Acts
 (D [REDACTED] J [REDACTED]) NOT GUILTY
- Count 25 - Fraud and Abuse Control Provider Prohibited Acts
 (M [REDACTED] L [REDACTED]) NOT GUILTY
- Count 26 - Fraud and Abuse Control Provider Prohibited Acts
 (J [REDACTED] L [REDACTED]) NOT GUILTY
- Count 27 - Fraud and Abuse Control Provider Prohibited Acts
 (L [REDACTED] N [REDACTED]) NOT GUILTY

Count 28 - Fraud and Abuse Control Provider Prohibited Acts
(K██████ W██████)

NOT GUILTY

Count 29 - Fraud and Abuse Control Provider Prohibited Acts
(R██████ W██████)

NOT GUILTY

Count 30 - Fraud and Abuse Control Provider Prohibited Acts
(F██████ Z██████)

NOT GUILTY

Count 31 - Conspiracy (Violation of the Controlled Substance, Drug, Device
and Cosmetic Act)

GUILTY

Count 32 - Conspiracy (Fraud and Abuse Control Provider Prohibited Acts)

NOT GUILTY

Count 33 - Flight To Avoid Apprehension

GUILTY

Sergio Hernandez Foreperson

Certified from the record
NEW CASTLE - LAWRENCE
COUNTY PENNSYLVANIA
JUL 11 2006
[Signature]
Clerk of Courts

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HELEN I. MORGAN
PRO AND CLERK

IN THE COURT OF COMMON PLEAS
LAWRENCE COUNTY
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA _____ F.A.

VS. _____ DATE FILED

PHILIP WAGMAN _____ C.F.T.D.

JUDGE _____

CC NO. 1236 of 2004 *W*

S.D.A.G. Jeffrey Baxter

OTN NO. _____

DEF.ATTY. Al Lindsay

PRE-TRIAL DATE _____

REPORTER _____

ACTOR'S RACE _____ SEX M

MINUTE CLERK _____

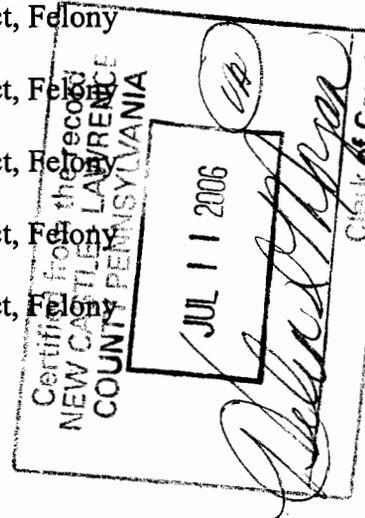
D.O.B. **[REDACTED]** SOC SEC # **[REDACTED]**

- Count 1 Violation of the Controlled Substance, Drug, Device and Cosmetic Act, Felony
- Count 2 Violation of the Controlled Substance, Drug, Device and Cosmetic Act, Felony
- Count 3 Violation of the Controlled Substance, Drug, Device and Cosmetic Act, Felony
- Count 4 Violation of the Controlled Substance, Drug, Device and Cosmetic Act, Felony
- Count 5 Violation of the Controlled Substance, Drug, Device and Cosmetic Act, Felony
- Count 6 Violation of the Controlled Substance, Drug, Device and Cosmetic Act, Felony
- Count 7 Violation of the Controlled Substance, Drug, Device and Cosmetic Act, Felony
- Count 8 Violation of the Controlled Substance, Drug, Device and Cosmetic Act, Felony
- Count 9 Violation of the Controlled Substance, Drug, Device and Cosmetic Act, Felony
- Count 10 Violation of the Controlled Substance, Drug, Device and Cosmetic Act, Felony
- Count 11 Violation of the Controlled Substance, Drug, Device and Cosmetic Act, Felony
- Count 12 Violation of the Controlled Substance, Drug, Device and Cosmetic Act, Felony

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PRO AND CLERK



- Count 13 Violation of the Controlled Substance, Drug, Device and Cosmetic Act, Felony
- Count 14 Violation of the Controlled Substance, Drug, Device and Cosmetic Act, Felony
- Count 15 Violation of the Controlled Substance, Drug, Device and Cosmetic Act, Felony
- Count 16 Violation of the Controlled Substance, Drug, Device and Cosmetic Act, Felony
- Count 17 Violation of the Controlled Substance, Drug, Device and Cosmetic Act, Felony
- Count 18 Violation of the Controlled Substance, Drug, Device and Cosmetic Act, Felony
- Count 19 Violation of the Controlled Substance, Drug, Device and Cosmetic Act, Felony
- Count 20 Fraud and Abuse Control Provider Prohibited Acts, Felony 3
- Count 21 Fraud and Abuse Control Provider Prohibited Acts, Felony 3
- Count 22 Fraud and Abuse Control Provider Prohibited Acts, Felony 3
- Count 23 Fraud and Abuse Control Provider Prohibited Acts, Felony 3
- Count 24 Fraud and Abuse Control Provider Prohibited Acts, Felony 3
- Count 25 Fraud and Abuse Control Provider Prohibited Acts, Felony 3
- Count 26 Fraud and Abuse Control Provider Prohibited Acts, Felony 3
- Count 27 Fraud and Abuse Control Provider Prohibited Acts, Felony 3
- Count 28 Fraud and Abuse Control Provider Prohibited Acts, Felony 3
- Count 29 Fraud and Abuse Control Provider Prohibited Acts, Felony 3
- Count 30 Fraud and Abuse Control Provider Prohibited Acts, Felony 3
- Count 31 Conspiracy, Felony
- Count 32 Conspiracy, Felony 3
- Count 33 Flight to Avoid Apprehension, Felony 3

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HELEN I. MORGAN
PRO AND CLERK

**IN THE COURT OF COMMON PLEAS
COUNTY OF LAWRENCE
CRIMINAL DIVISION**

COMMONWEALTH OF PENNSYLVANIA

VS.

PHILIP WAGMAN

Criminal Docket No. 1236 of 2004

The Attorney General of the Commonwealth of Pennsylvania by this Information charges that between and including the dates of June 12, 2002 and October 8, 2003, in the said County of Lawrence, Philip Wagman, hereinafter called the Actor, did commit the crime or crimes indicated herein; that is:

Count 1 **Violation of the Controlled Substance,
Drug, Device and Cosmetic Act** **Felony**

Between January 2, 2003 and June 18, 2003, the Actor prescribed controlled substances, in his capacity as a licensed practitioner, that were not in accordance with treatment principles accepted by a responsible segment of the medical profession, in an amount greater than 100 grams, namely, the Actor, in his capacity as a licensed practitioner, prescribed Schedule II controlled substances, namely, OXYCODONE, to S. A. [REDACTED], in amounts exceeding 100 grams. 35 P.S. §780-113(a)(14)(iii)

Count 2 **Violation of the Controlled Substance,
Drug, Device and Cosmetic Act** **Felony**

Between October 9, 2002 and June 15, 2003, the Actor prescribed controlled substances, in his capacity as a licensed practitioner, that were not in accordance with treatment principles accepted by a responsible segment of the medical profession, in an amount greater than 100 grams, namely, the Actor, in his capacity as a licensed practitioner, prescribed Schedule II controlled substances, namely, OXYCONTIN and/or ENDOCET, to B. A. [REDACTED], in amounts exceeding 100 grams. 35 P.S. §780-113(a)(14)(iii)

Count 3 **Violation of the Controlled Substance,
Drug, Device and Cosmetic Act** **Felony**

Between October 15, 2002 and July 17, 2003, the Actor prescribed controlled substances, in his capacity as a licensed practitioner, that were not in accordance with treatment principles accepted by a responsible segment of the medical profession, in an amount exceeding 10 grams and less than 100 grams, namely, the Actor, in his capacity as a licensed practitioner, prescribed Schedule II controlled substances, namely, ENDOCET and/or OXYCONTIN, to R. C. [REDACTED], in amounts exceeding 10 grams and less than 100 grams. 35 P.S. §780-113(a)(14)(iii)

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HELEN I. MORGAN
PRO AND CLERK

Count 4 **Violation of the Controlled Substance,
Drug, Device and Cosmetic Act** **Felony**

Between September 17, 2002 and July 14, 2003, the Actor prescribed controlled substances, in his capacity as a licensed practitioner, that were not in accordance with treatment principles accepted by a responsible segment of the medical profession in an amount exceeding 10 grams and less than 100 grams, namely, the Actor, in his capacity as a licensed practitioner, prescribed Schedule II controlled substances, namely, OXYCODONE and/or OXYCONTIN, to H█████ C█████, in amounts exceeding 10 grams and less than 100 grams. 35 P.S. §780-113(a)(14)(iii)

Count 5 **Violation of the Controlled Substance,
Drug, Device and Cosmetic Act** **Felony**

Between September 30, 2002 and October 8, 2003, the Actor prescribed controlled substances, in his capacity as a licensed practitioner, that were not in accordance with treatment principles accepted by a responsible segment of the medical profession, in an amount greater than 100 grams, namely, the Actor, in his capacity as a licensed practitioner, prescribed Schedule II controlled substances, namely, OXYCONTIN and/or ENDOCET, and/or PERCOCET, to L█████ C█████, in amounts exceeding 100 grams. 35 P.S. §780-113(a)(14)(iii)

Count 6 **Violation of the Controlled Substance,
Drug, Device and Cosmetic Act** **Felony**

Between June 12, 2002 and October 7, 2003, the Actor prescribed controlled substances, in his capacity as a licensed practitioner, that were not in accordance with treatment principles accepted by a responsible segment of the medical profession, in an amount greater than 100 grams, namely, the Actor, in his capacity as a licensed practitioner, prescribed Schedule II controlled substances, namely, OXYCONTIN and/or ENDOCET, to W█████ C█████, in amounts exceeding 100 grams. 35 P.S. §780-113(a)(14)(iii)

Count 7 **Violation of the Controlled Substance,
Drug, Device and Cosmetic Act** **Felony**

Between June 18, 2002 and April 21, 2003, the Actor prescribed controlled substances, in his capacity as a licensed practitioner, that were not in accordance with treatment principles accepted by a responsible segment of the medical profession, in an amount exceeding 10 grams and less than 100 grams, namely, the Actor, in his capacity as a licensed practitioner, prescribed Schedule II controlled substances, namely, OXYCONTIN, to R█████ D█████, in amounts exceeding 10 grams and less than 100 grams. 35 P.S. §780-113(a)(14)(iii)

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HELEN I. MORGAN
PRO AND CI CLK

Count 8 **Violation of the Controlled Substance,
Drug, Device and Cosmetic Act** **Felony**

Between October 24, 2002 and June 13, 2003, the Actor prescribed controlled substances, in his capacity as a licensed practitioner, that were not in accordance with treatment principles accepted by a responsible segment of the medical profession, in an amount greater than 100 grams, namely, the Actor, in his capacity as a licensed practitioner, prescribed Schedule II controlled substances, namely, ENDOCET and/or OXYCONTIN, to G■■■■/G■■■■, in amounts exceeding 100 grams. 35 P.S. §780-113(a)(14)(iii)

Count 9 **Violation of the Controlled Substance,
Drug, Device and Cosmetic Act** **Felony**

Between September 25, 2002 and July 2, 2003, the Actor prescribed controlled substances, in his capacity as a licensed practitioner, that were not in accordance with treatment principles accepted by a responsible segment of the medical profession, in an amount greater than 100 grams, namely, the Actor, in his capacity as a licensed practitioner, prescribed Schedule II controlled substances, namely, ENDOCET, to D■■■■ J■■■■, in amounts exceeding 100 grams. 35 P.S. §780-113(a)(14)(iii)

Count 10 **Violation of the Controlled Substance,
Drug, Device and Cosmetic Act** **Felony**

Between May 12, 2003 and June 6, 2003, the Actor prescribed controlled substances, in his capacity as a licensed practitioner, that were not in accordance with treatment principles accepted by a responsible segment of the medical profession, in an amount exceeding 2 grams and less than 10 grams, namely, the Actor, in his capacity as a licensed practitioner, prescribed Schedule II controlled substances, namely, OXYCONTIN, to M■■■■ L■■■■, in amounts exceeding 2 grams and less than 10 grams. 35 P.S. §780-113(a)(14)(iii)

Count 11 **Violation of the Controlled Substance,
Drug, Device and Cosmetic Act** **Felony**

Between January 3, 2003 and July 21, 2003, the Actor prescribed controlled substances, in his capacity as a licensed practitioner, that were not in accordance with treatment principles accepted by a responsible segment of the medical profession, in an amount greater than 100 grams, namely, the Actor, in his capacity as a licensed practitioner, prescribed Schedule II controlled substances, namely, OXYCONTIN and/or ENDOCET and/or OXYCODONE, to ■■■■■, in amounts exceeding 100 grams. 35 P.S. §780-113(a)(14)(iii)

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HELEN I. MORGAN
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Count 12 **Violation of the Controlled Substance,
Drug, Device and Cosmetic Act** **Felony**

Between November 19, 2002 and October 7, 2003, the Actor prescribed controlled substances, in his capacity as a licensed practitioner, that were not in accordance with treatment principles accepted by a responsible segment of the medical profession, in an amount greater than 100 grams, namely, the Actor, in his capacity as a licensed practitioner, prescribed Schedule II controlled substances, namely, OXYCODONE and/or ENDOCET, to L ■■■ N ■■■, in amounts exceeding 100 grams. 35 P.S. §780-113(a)(14)(iii)

Count 13 **Violation of the Controlled Substance,
Drug, Device and Cosmetic Act** **Felony**

Between January 3, 2003 and June 16, 2003, the Actor prescribed controlled substances, in his capacity as a licensed practitioner, that were not in accordance with treatment principles accepted by a responsible segment of the medical profession, in an amount exceeding 10 grams but less than 100 grams, namely, the Actor, in his capacity as a licensed practitioner, prescribed Schedule II controlled substances, namely, OXYCONTIN and/or OXYCODONE, to J ■■■ R ■■■, in amounts exceeding 10 grams but less than 100 grams. 35 P.S. §780-113(a)(14)(iii)

Count 14 **Violation of the Controlled Substance,
Drug, Device and Cosmetic Act** **Felony**

Between June 7, 2003 and June 21, 2003, the Actor prescribed controlled substances, in his capacity as a licensed practitioner, that were not in accordance with treatment principles accepted by a responsible segment of the medical profession, in an amount exceeding 10 grams but less than 100 grams, namely, the Actor, in his capacity as a licensed practitioner, prescribed Schedule II controlled substances, namely, OXYCONTIN and/or PERCOCET and/or ENDOCET, to J ■■■ S ■■■, in amounts exceeding 10 grams but less than 100 grams. 35 P.S. §780-113(a)(14)(iii)

Count 15 **Violation of the Controlled Substance,
Drug, Device and Cosmetic Act** **Felony**

Between June 17, 2003 and July 1, 2003, the Actor prescribed controlled substances, in his capacity as a licensed practitioner, that were not in accordance with treatment principles accepted by a responsible segment of the medical profession, in an amount greater than 100 grams, namely, the Actor, in his capacity as a licensed practitioner, prescribed Schedule II controlled substances, namely, ENDOCET, to A ■■■ S ■■■, in amounts exceeding 100 grams. 35 P.S. §780-113(a)(14)(iii)

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Count 16 **Violation of the Controlled Substance,
Drug, Device and Cosmetic Act** **Felony**

Between July 20, 2002 and June 16, 2003, the Actor prescribed controlled substances, in his capacity as a licensed practitioner, that were not in accordance with treatment principles accepted by a responsible segment of the medical profession, in an amount greater than 100 grams, namely, the Actor, in his capacity as a licensed practitioner, prescribed Schedule II controlled substances, namely, OXYCONTIN, to A [REDACTED] V [REDACTED], in amounts exceeding 100 grams. 35 P.S. §780-113(a)(14)(iii)

Count 17 **Violation of the Controlled Substance,
Drug, Device and Cosmetic Act** **Felony**

Between April 8, 2003 and July 1, 2003, the Actor prescribed controlled substances, in his capacity as a licensed practitioner, that were not in accordance with treatment principles accepted by a responsible segment of the medical profession, in an amount greater than 100 grams, namely, the Actor, in his capacity as a licensed practitioner, prescribed Schedule II controlled substances, namely, OXYCONTIN and/or ENDOCET, to K [REDACTED] W [REDACTED], in amounts exceeding 100 grams. 35 P.S. §780-113(a)(14)(iii)

Count 18 **Violation of the Controlled Substance,
Drug, Device and Cosmetic Act** **Felony**

Between November 1, 2002 and July 16, 2003, the Actor prescribed controlled substances, in his capacity as a licensed practitioner, that were not in accordance with treatment principles accepted by a responsible segment of the medical profession, in an amount greater than 100 grams, namely, the Actor, in his capacity as a licensed practitioner, prescribed Schedule II controlled substances, namely, OXYCONTIN and/or ENDOCET, to R [REDACTED] W [REDACTED], in amounts exceeding 100 grams. 35 P.S. §780-113(a)(14)(iii)

Count 19 **Violation of the Controlled Substance,
Drug, Device and Cosmetic Act** **Felony**

Between March 12, 2003 and July 2, 2003, the Actor prescribed controlled substances, in his capacity as a licensed practitioner, that were not in accordance with treatment principles accepted by a responsible segment of the medical profession, in an amount greater than 100 grams, namely, the Actor, in his capacity as a licensed practitioner, prescribed Schedule II controlled substances, namely, ENDOCET, to F [REDACTED] Z [REDACTED], in amounts exceeding 100 grams. 35 P.S. §780-113(a)(14)(iii)

Count 20 **Fraud and Abuse Control Provider Prohibited Acts** **Felony 3**

Between October 9, 2002 and October 28, 2002, the Actor referred a Medical Assistance recipient to a provider by prescription for services which were not documented in the record in the prescribed manner, and are of little or no benefit to the recipient, are below the accepted medical treatment standards, or are unneeded by the recipient, namely, the Actor referred B [REDACTED] A [REDACTED] a Medical Assistance recipient, to a provider, namely East Side Pharmacy, by prescription, for services which were not documented in the record in the prescribed manner, and were of little or no benefit to the recipient and/or were below the accepted medical treatment standards, and/or were unneeded by the recipient. 62 P.S. §1407(a)(6)

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HELEN I. MORGAN
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Count 21 Fraud and Abuse Control Provider Prohibited Acts Felony 3

Between September 17, 2002 and July 14, 2003, the Actor referred a Medical Assistance recipient to a provider by prescription for services which were not documented in the record in the prescribed manner, and are of little or no benefit to the recipient, are below the accepted medical treatment standards, or are unneeded by the recipient, namely, the Actor referred H█████ C█████, a Medical Assistance recipient, to a provider, namely CVS Pharmacy and/or East Side Pharmacy, by prescription, for services which were not documented in the record in the prescribed manner, and were of little or no benefit to the recipient and/or were below the accepted medical treatment standards, and/or were unneeded by the recipient. 62 P.S. §1407(a)(6)

Count 22 Fraud and Abuse Control Provider Prohibited Acts Felony 3

Between June 18, 2002 and March 24, 2003, the Actor referred a Medical Assistance recipient to a provider by prescription for services which were not documented in the record in the prescribed manner, and are of little or no benefit to the recipient, are below the accepted medical treatment standards, or are unneeded by the recipient, namely, the Actor referred R█████ D█████, a Medical Assistance recipient, to a provider, namely Hometown Pharmacy, by prescription, for services which were not documented in the record in the prescribed manner, and were of little or no benefit to the recipient and/or were below the accepted medical treatment standards, and/or were unneeded by the recipient. 62 P.S. §1407(a)(6)

Count 23 Fraud and Abuse Control Provider Prohibited Acts Felony 3

Between December 5, 2002 and June 13, 2003, the Actor referred a Medical Assistance recipient to a provider by prescription for services which were not documented in the record in the prescribed manner, and are of little or no benefit to the recipient, are below the accepted medical treatment standards, or are unneeded by the recipient, namely, the Actor referred C█████ G█████, a Medical Assistance recipient, to a provider, namely Hometown Pharmacy, by prescription, for services which were not documented in the record in the prescribed manner, and were of little or no benefit to the recipient and/or were below the accepted medical treatment standards, and/or were unneeded by the recipient. 62 P.S. §1407(a)(6)

Count 24 Fraud and Abuse Control Provider Prohibited Acts Felony 3

Between September 25, 2002 and July 2, 2003, the Actor referred a Medical Assistance recipient to a provider by prescription for services which were not documented in the record in the prescribed manner, and are of little or no benefit to the recipient, are below the accepted medical treatment standards, or are unneeded by the recipient, namely, the Actor referred D█████ J█████, a Medical Assistance recipient, to a provider, namely Hometown Pharmacy, by prescription, for services which were not documented in the record in the prescribed manner, and were of little or no benefit to the recipient and/or were below the accepted medical treatment standards, and/or were unneeded by the recipient. 62 P.S. §1407(a)(6)

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HELEN I. MORGAN
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Count 25 Fraud and Abuse Control Provider Prohibited Acts Felony 3

On or about May 15, 2003, the Actor referred a Medical Assistance recipient to a provider by prescription for services which were not documented in the record in the prescribed manner, and are of little or no benefit to the recipient, are below the accepted medical treatment standards, or are unneeded by the recipient, namely, the Actor referred M [REDACTED] L [REDACTED], a Medical Assistance recipient, to a provider, namely Hometown Pharmacy, by prescription, for services which were not documented in the record in the prescribed manner, and were of little or no benefit to the recipient and/or were below the accepted medical treatment standards, and/or were unneeded by the recipient. 62 P.S. §1407(a)(6)

Count 26 Fraud and Abuse Control Provider Prohibited Acts Felony 3

Between June 5, 2003 and July 15, 2003, the Actor referred a Medical Assistance recipient to a provider by prescription for services which were not documented in the record in the prescribed manner, and are of little or no benefit to the recipient, are below the accepted medical treatment standards, or are unneeded by the recipient, namely, the Actor referred J [REDACTED] L [REDACTED], a Medical Assistance recipient, to a provider, namely Med Fast Pharmacy, by prescription, for services which were not documented in the record in the prescribed manner, and were of little or no benefit to the recipient and/or were below the accepted medical treatment standards, and/or were unneeded by the recipient. 62 P.S. §1407(a)(6)

Count 27 Fraud and Abuse Control Provider Prohibited Acts Felony 3

Between November 19, 2002 and June 24, 2003, the Actor referred a Medical Assistance recipient to a provider by prescription for services which were not documented in the record in the prescribed manner, and are of little or no benefit to the recipient, are below the accepted medical treatment standards, or are unneeded by the recipient, namely, the Actor referred L [REDACTED] N [REDACTED], a Medical Assistance recipient, to a provider, namely Med Fast Pharmacy and/or Eckard Pharmacy, by prescription, for services which were not documented in the record in the prescribed manner, and were of little or no benefit to the recipient and/or were below the accepted medical treatment standards, and/or were unneeded by the recipient. 62 P.S. §1407(a)(6)

Count 28 Fraud and Abuse Control Provider Prohibited Acts Felony 3

Between April 8, 2003 and June 1, 2003, the Actor referred a Medical Assistance recipient to a provider by prescription for services which were not documented in the record in the prescribed manner, and are of little or no benefit to the recipient, are below the accepted medical treatment standards, or are unneeded by the recipient, namely, the Actor referred K [REDACTED] W [REDACTED], a Medical Assistance recipient, to a provider, namely Rite Aid Pharmacy, by prescription, for services which were not documented in the record in the prescribed manner, and were of little or no benefit to the recipient and/or were below the accepted medical treatment standards, and/or were unneeded by the recipient. 62 P.S. §1407(a)(6)

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HELEN I. MORGAN
PRO AND CLERK

Count 33

Flight to Avoid Apprehension

Felony 3

Between September 23, 2004 and October 1, 2004, the Actor willfully concealed himself and/or traveled within and/or outside the Commonwealth of Pennsylvania with the intent to avoid apprehension. Namely, the Actor, after becoming aware of a warrant for his arrest, traveled outside the Commonwealth of Pennsylvania, and/or made attempt(s) to purchase airline tickets for travel outside of the United States both of which were to avoid apprehension. 18 Pa. C.S. §5126(a)

All of which is against the Act of Assembly and the peace and dignity of the Commonwealth of Pennsylvania.

10-25-04

Date



Gerald J. Pappert
Attorney General

Commonwealth of Pennsylvania

by

E. Christopher Abruzzo
Chief Deputy Attorney General

FILED/ORIGINAL

2004 NOV 22 A 10: 21

HELEN I. MORGAN
PRO AND CLERK

TRUE AND CORRECT COPY
CERTIFIED FROM THE RECORD
THIS 31 DAY OF July A.D. 06

OHIO STATE MEDICAL BOARD

AUG 02 2006

PROTHONOTARY

Sean S. Walton
PROTHONOTARY

IN THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE

2006 MAY 19 AM 11:53

Department of State

In the Matter of the Automatic :
Suspension of the License to :
Practice Medicine and Surgery of : Docket No. 829 -49-06
Phillip G. Wagman, M.D. : File No. 03-49-05867
License No. MD-045270-E :
:

NOTICE AND ORDER OF AUTOMATIC SUSPENSION

ORIGINAL
COPY

WHEREAS, the records of the State Board of Medicine ("Board") reflect that Phillip G. Wagman, M.D., ("Respondent"), is the holder of a license to practice medicine and surgery without restriction in the Commonwealth of Pennsylvania, license number MD-045270-E;

WHEREAS, the prosecuting attorney for the Commonwealth has filed a Petition for Automatic Suspension (attachment "A"), including copies of records certified by the Court of Common Pleas of Lawrence County, PA, in the case of Commonwealth of Pennsylvania v. Philip Wagman, Docket Number CC 1236 of 2004, evidencing that a jury verdict was entered against Respondent for 19 felony violations of the Controlled Substance, Drug, Device and Cosmetic Act¹ (Drug Act) at 35 P.S. §§780-113(a)(14)(iii) in that Respondent was found guilty of 19 felony counts of knowingly, unlawfully, and/or illegally prescribing a controlled substance in his capacity as a licensed medical practitioner to individuals under circumstances wherein the prescription was not prescribed in accordance with treatment principles accepted by a responsible segment of the medical profession; and that a jury verdict was entered against Respondent for one (1) felony violation of the Controlled Substance, Drug, Device and Cosmetic Act (Drug Act)

¹ Act of April 14, 1972 (P.L. 233, No. 64), as amended, 35 P.S. §§ 780-101 *et seq.*

B-2

AUG 02 2006

at 35 P.S. §§780-113(a)(14)(iii) for conspiring to engage in conduct which constituted a crime, namely agreeing with two (2) other license healthcare professionals to promote or facilitate the commission of a crime or crimes, by engaging in conduct which constituted a criminal violation of 35 P.S. §§780-113(a)(14)(iii) by prescribing Schedule II controlled substances which were not prescribed in accordance with treatment principles accepted by a responsible segment of the medical profession in violation of 18 Pa.C.S. § 903(a)(1); and further, that a jury verdict was entered against Respondent for one (1) felony count of Flight to Avoid Apprehension, at 18 Pa.C.S.A. § 5126(a).

WHEREAS, the Medical Practice Act² at 63 P.S. §422.40(b), provides in pertinent part:

“(b) Automatic Suspensions.-A license or certificate issued under this act shall automatically be suspended upon the legal commitment to an institution of a licensee or a certificate holder because of mental incompetency from any cause upon filing with the Board a certified copy of such commitment, **conviction of a felony under the act of April 14, 1972 (P.L. 233, No. 64), known as the Controlled Substance, Drug, Device and Cosmetic Act** or conviction of an offense under the laws of another jurisdiction, which if committed in this Commonwealth would be a felony under the Controlled Substance, Drug, Device and Cosmetic Act. As used in this section, the term “conviction” shall include a judgment, an admission of guilt or a plea of nolo contendere. Automatic suspension under this subsection shall not be stayed pending an appeal of a conviction. Restoration of such license or certificate shall be made as hereinafter provided in the case of revocation or suspension of such license or certificate.”

WHEREAS, Respondent on May 6, 2006 was convicted under the Drug Act at 35 P.S. §§780-113(a)(14);

WHEREAS, Respondent's convictions with regard to controlled substances constitute felonies pursuant to 35 P.S. §780-113;

NOW, THEREFORE the Board concludes that Respondent has been convicted of a felony under the Drug Act, and that the license to practice medicine and surgery

² Act of December 20, 1985 (P.L. 457, No. 112) as amended, 63 P.S. §§422.1 *et seq.*

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issued to Respondent Phillip G. Wagman, ~~M.D.~~ license no. MD-045270-E, shall be **AUTOMATICALLY SUSPENDED** for at least ten years under the authority of sections 40(b) and 43(b) of the Medical Practice Act of 1985 (Act), Act of December 20, 1985, P.L. 457, as amended, 63 P.S. §§ 422.40(b), 422.43(b), effective immediately.

Should Respondent choose to file an answer to the petition and a request a hearing, Respondent must do so by June 8, 2006, 20 days after the effective date of this order. If Respondent files an answer and request for hearing, the suspension of Respondent's license shall remain in effect until a final order is issued addressing the issues raised in the answer. Responses to the Petition and any hearing held in connection with the response shall be limited to the issue of whether Respondent was convicted of the offense(s) as alleged in the petition.

Responses to the petition and a request for hearing shall be filed with Deanna S. Walton, Prothonotary, Bureau of Professional and Occupational Affairs, 2601 North Third Street, Harrisburg, PA 17110. A copy of any answer, request for hearing or petition for stay shall be served on the Prosecuting Attorney identified in the petition at the address set forth below.

Any hearing in connection with this matter shall be scheduled within 30 days of receipt of the request for a hearing. Continuances will only be granted for good cause shown.

If a response to the petition and a request for a hearing is not filed within the time period set forth above, Respondent's license will remain automatically suspended and a Final Order to that effect will be issued forthwith.

AUG 02 2006

BY ORDER:

BUREAU OF PROFESSIONAL
AND OCCUPATIONAL AFFAIRS

Basil L. Merenda

Basil L. Merenda
Commissioner

STATE BOARD OF MEDICINE

Charles D. Hummer, Jr., M.D.

Charles D. Hummer, Jr., M.D.
Chairman

Respondent's Address:

P.O. Box 5529
New Castle, PA 16105

1712 Gretchen Road
New Castle, PA 16101

Lawrence County Jail
433 Court Street
New Castle, PA 16101

Prosecuting Attorney:

Bridget K. Guilfoyle, Esquire
P. O. Box 2649
Harrisburg, PA 17105

Board Counsel:

Sabina I. Howell, Esquire
P.O. Box 2649
Harrisburg, PA 17105

Date of Mailing:

May 19, 2006

TRUE AND CORRECT COPY
CERTIFIED FROM THE RECORD
THIS 31 DAY OF July A.D. 06

ORIGINAL

Deanna S. Walz
PROTHONOTARY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE

PROTHONOTARY

2006 JUL -6 AM 8:57

Department of State

In the Matter of the Automatic	:	
Suspension of the License to	:	Docket No. 0829-49-06
Practice Medicine and Surgery of	:	File No. 03-49-05867
Philip G. Wagman, M.D.,	:	
License No. MD-045270-E	:	

OHIO STATE MEDICAL BOARD

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ADJUDICATION AND ORDER

John T. Henderson, Jr.
Hearing Examiner

Governor's Office of General Counsel
Department of State
P.O. Box 2649
Harrisburg, PA 17105-2649
(717) 772-2686

DATE DISTRIBUTED 7-6-06
PROSECUTION ✓ 3 Tracker
COUNSEL ✓
HEARING EXAMINER _____
ORDER R. Tammy R.

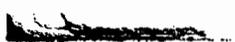
HISTORY

This matter comes before the hearing examiner for the Department of State on a Petition for Automatic Suspension ("PAS") filed on May 19, 2006 alleging that Philip G. Wagman, M.D. (Respondent) has been convicted of nineteen (19) felony violations of the Controlled Substance, Drug, Device and Cosmetic Act ("Drug Act"), 35 P.S. §780-101, *et seq.*, 35 P.S. §780-113(a)(14)(iii). Accordingly, the State Board of Medicine ("Board") filed a Notice and Order of Automatic Suspension on May 19, 2006, suspending the Respondent's license for 10 years in accordance with the Medical Practice Act.

By letter dated June 1, 2006, which was filed with the Prothonotary's Office on June 5, 2006, the Respondent requested a hearing. A formal administrative hearing was held on July 5, 2006. Bridget K. Guilfoyle, Esquire represented the Commonwealth. Respondent did not attend the hearing. At the conclusion of the hearing, the Commonwealth recommended that the Board's Order of May 19, 2006 be upheld and that the Respondent's license be suspended for 10 years. The Commonwealth waived the filing of a post-hearing brief.

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FINDINGS OF FACT

1. Respondent is the holder of License No. MD-045270-E, issued by the State Board of Medicine (Board), authorizing Respondent to practice medicine and surgery without restriction in the Commonwealth of Pennsylvania. (Exhibit B-1)

2. Respondent's license expired on December 31, 2004, but, barring any disciplinary action by the Board, may be continually renewed thereafter upon the filing of the appropriate documents and payment of the necessary fees. (Exhibit B-1)

3. Respondent retains a property interest in his license until and unless it is
OHIO STATE MEDICAL BOARD
revoked by the Board. (Exhibit B-1)

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4. Respondent's last known address on file with the Board is P.O. Box 5529, New Castle, PA 16105; however, the prosecuting attorney indicated that Respondent's current address is either 1712 Gretchen Road, New Castle, PA 16101 or Lawrence County Jail, 433 Court Street, New Castle, PA 16101. (Exhibit B-1)

5. At all times pertinent to the allegations in this Petition, Respondent was licensed to practice medicine and surgery in the Commonwealth of Pennsylvania. (Board records)

6. On May 9, 2006, in the Court of Common Pleas of Lawrence County, Pennsylvania, Docket No. CR 1236 of 2004 in the case of *Commonwealth of Pennsylvania vs. Philip Wagman*, a jury verdict was entered in which Respondent was found guilty of the following: Nineteen (19) counts of knowingly, unlawfully and/or illegally prescribing controlled substances, *i.e.*, Oxycontin, Endocet, Percocet, and Oxycodone, all schedule II controlled substances, in his capacity as a licensed medical practitioner to individuals under circumstances wherein the prescription was not

prescribed in accordance with treatment principles accepted by a responsible segment of the medical profession, a felony, in violation of Section 13(a)(14)(iii) of the Act of April 14, 1972 (P.L. 233, No. 64) known as the Controlled Substance, Drug, Device and Cosmetic Act (the "Drug Act"), 35 P.S. §780-101, *et seq.*, 35 P.S. §780-113(a)(14)(iii); One (1) count of conspiracy to violate Section 13(a)(14)(iii) of the Drug Act in that between March 2001 and October 14, 2003, Respondent, with the intent of promoting or facilitating the commission of a crime or crimes, agreed with such other persons that they would engage in conduct which constituted crimes, namely, Respondent agreed with two other licensed healthcare professionals that they would engage in conduct which constituted a criminal violation of Section 13(a)(14)(iii) of the Drug Act by prescribing Schedule II controlled substances which were not in accordance with treatment principles accepted by a responsible segment of the medical profession, a felony, in violation of 18 Pa. C.S.A. §903(a)(1), and; One (1) count of Flight to Avoid Apprehension, a felony, in violation of 18 Pa. C.S. §5126(a). (Exhibits C-1 to C-3)

7. Oxycontin is a schedule II controlled substance as set forth at 35 P.S. §780-104(2)(i) and further set forth in the regulations of the Secretary of Health at 28 Pa. Code §25.72(c)(1). (Exhibit B-1)

OHIO STATE MEDICAL BOARD

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8. Endocet, a combination of oxycodone and acetaminophen, is a schedule II controlled substance as set forth at 35 P.S. §780-104(2)(i) and further set forth in the regulations of the Secretary of Health at 28 Pa. Code §25.72(c)(1). (Exhibit B-1)

9. Percocet, a combination of oxycodone and acetaminophen, is a schedule II controlled substance as set forth at 35 P.S. §780-104(2)(i) and further set forth in the regulations of the Secretary of Health at 28 Pa. Code §25.72(c)(1). (Exhibit B-1)

10. Oxycodone is a schedule II controlled substance as set forth at 35 P.S. §780-104(2)(i) and further set forth in the regulations of the Secretary of Health at 28 Pa. Code §25.72(c)(1). (Exhibit B-1)

11. Section 13(a)(14) of the Drug Act, 35 P.S. §780-113(a)(14), provides as follows: (a) The following acts and the causing thereof within the Commonwealth are hereby prohibited: (14) The administration, dispensing, delivery, gift or prescription of any controlled substance by any practitioner or professional assistant under the practitioner's direction and supervision unless done so (i) in good faith in the course of his professional practice; (ii) within the scope of the patient relationship; (iii) in accordance with treatment principles accepted by a responsible segment of the medical profession. (Exhibit B-1)

12. The Drug Act at 35 P.S. §780-113(f)(1) and (2) classifies violations of 35 P.S. §780-113(a)(14) regarding schedule II controlled substances as follows: (f) Any person who violates clause...(14) of subsection (a) with respect to: ...

- (1) A controlled substance or counterfeit substance classified as Schedule I or II which is a narcotic drug, is guilty of a felony....
- (2) Any other controlled substance or counterfeit substance classified in Schedule I, II, or III is guilty of a felony....

13. Section 40(b) of the Medical Practice Act of 1985 (Act), Act of December 20, 1985, P.L. 457, *as amended*, 63 P.S. §422.40(b), provides in part:

A license or certificate issued under this act shall automatically be suspended upon the...conviction of a felony under the act of April 14, 1972 (P.L. 233, No. 64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or conviction of an offense under the laws of another jurisdiction, which, if committed in this Commonwealth, would be a felony under The Controlled

OHIO STATE MEDICAL BOARD

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Substance, Drug, Device and Cosmetic Act. As used in this section, the term "conviction" shall include a judgment, an admission of guilt or a plea of nolo contendere...

14. Respondent was served with the PAS and all other pleadings, notices, and orders filed of record in this proceeding. (Docket No. 0829-49-06)

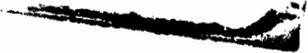
OHIO STATE MEDICAL BOARD

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CONCLUSIONS OF LAW

1. The Board has jurisdiction in this matter. (Findings of Fact, Nos.1-5)
2. Respondent has been afforded notice regarding these proceedings and an opportunity to be heard. (Findings of Fact, No. 14)
3. The record supports a finding that the Respondent's license is subject to an automatic suspension under the provisions of Section 40(b) of the Medical Practice Act, 63 P.S. §422.40(b) in that Respondent was convicted of nineteen counts, all felony violations of Section 13(a)(14) (iii)of the Drug Act, 35 P.S. §780-113(a)(14)(iii). (Findings of Fact, Nos. 5-13)

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DISCUSSION

The PAS was filed on May 19, 2006 and initially alleged that the Respondent had been convicted of nineteen felony counts of knowingly, unlawfully and/or illegally prescribing controlled substances, i.e. Oxycontin, Endocet, Percocet, and Oxycodone, all schedule II substances, all violations of the Drug Act at 35 P.S. §780-113(a)(14)(iii). Specifically, the PAS noted that on May 9, 2006, in the Court of Common Pleas, Lawrence County, Docket No. CR 1236 of 2004, in the case of *Commonwealth of Pennsylvania vs. Philip Wagman*, a jury verdict was entered, in which Respondent was found guilty of nineteen counts of knowingly, unlawfully, and/or illegally prescribing controlled substances, all violations of the Drug Act at 35 P.S. §780-113(a)(14)(iii). Additionally, he was convicted of one count of conspiracy to violate Section 13(a)(14)(iii) of the Drug Act, in violation of 18 Pa. C.S.A. §903(a)(1), and one count of Flight to Avoid Apprehension, in violation of 18 Pa. C.S. §5126(a). (Exhibit B-1) In light of these facts, the Board issued a Notice, also on May 19, 2006, automatically suspending the Respondent's license for 10 years under sections 422.40(b) and 422.43(b) of the Medical Practice Act.¹ (Exhibit B-2)

In the Notice, the Respondent was required to request a hearing and respond to the PAS by June 8, 2006. (Exhibit B-2) The Notice also provided that any appeal was limited to the issue of whether Respondent was convicted of the offense as alleged in the PAS or whether conviction of the offense is a misdemeanor under the Drug Act. (Exhibit B-2) As indicated earlier, the Respondent's letter of June 1, 2006, filed on June 5, 2006 was subsequently treated as a timely appeal. (Exhibit B-3) In his answer, the

¹ Act of December 20, 1985 (P.L. 457, No. 112) as amended, 63 P.S. §422.1 *et seq.*

Respondent indicated that all correspondence should be sent to the address set forth in his answer and to the attorney who handled his criminal matters. (Exhibit B-3) These are the addresses to which the Respondent's Notice of Hearing was mailed. (Exhibit B-4) As indicated earlier neither the Respondent nor his attorney attended the hearing.

In his request for a hearing, the Respondent did not provide any basis for setting aside the imposition of the automatic suspension provisions. (Exhibit B-3) Similarly, the Respondent did not appear, nor did he have counsel appear at the hearing on his behalf. At the hearing, the Commonwealth introduced into evidence the criminal record of the Respondent. (Exhibit C-3) From the record, it is clear that on May 9, 2006, the Respondent was convicted of nineteen felony counts of knowingly, unlawfully and/or illegally prescribing controlled substances. This is a violation of the Drug Act at 35 P.S. §780-113 (a)(14)(iii). Accordingly, it is clear that the automatic suspension was properly imposed under sections 422.40(b) and 422.43(b) of the Medical Practice Act and the Respondent is not entitled to relief.

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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE

In the Matter of the Automatic :
Suspension of the License to : **Docket No. 0829-49-06**
Practice Medicine and Surgery of : **File No. 03-49-05867**
Philip G. Wagman, M.D., :
License No. MD-045270-E :

OPINION AND ORDER AFFIRMING AUTOMATIC SUSPENSION OF
MAY 19, 2006

Now this 6th day of July 2006, based upon the foregoing, the order of May 19, 2006, which imposed an Automatic Suspension of the License issued to the Respondent, **Philip G. Wagman, M.D., License No. MD-045270-E**, is **AFFIRMED** and the Respondent's license remains **AUTOMATICALLY SUSPENDED** unless otherwise ordered by the State Board of Medicine.

Respondent shall immediately cease practicing medicine in the Commonwealth of Pennsylvania and return all licensure documents, including wall certificates and wallet card, to the following address:

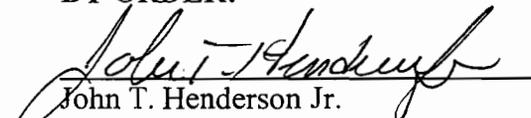
State Board of Medicine
Attn: Board Counsel
P.O. Box 2649
Harrisburg, PA 17105-2649

OHIO STATE MEDICAL BOARD

AUG 02 2006

This order shall take effect (20) days from the date of mailing, shown below, unless otherwise ordered by the State Board of Medicine.

BY ORDER:


John T. Henderson Jr.
Hearing Examiner

For the Respondent:

Alex Lindsay, Esquire
Lindsay Law Firm
128 S. Main Street
Butler, PA 16001

Philip G. Wagman
Lawrence County Jail
111 S. Milton
New Castle, PA 16101

Philip G. Wagman
Lawrence County Jail
433 Court Street
New Castle, PA 16101

Philip G. Wagman
P.O. Box 5529
New Castle, PA 16105

For the Commonwealth:

Bridget K. Guilfoyle, Esquire
Commonwealth of Pennsylvania
Governor's Office of General Counsel
Department of State
P.O. Box 2649
Harrisburg, PA 17105-2649

Date of Mailing: July 6, 2006

OHIO STATE MEDICAL BOARD
AUG 02 2006

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NOTICE

(Medicine)

REHEARING AND/OR RECONSIDERATION BY HEARING EXAMINER

An application to the hearing examiner for rehearing or reconsideration may be filed by a party within 15 days after the mailing date of this adjudication and order. The application must be captioned "Application for Rehearing," "Application for Reconsideration," or "Application for Rehearing or Reconsideration." It must state specifically and concisely, in numbered paragraphs, the grounds relied upon in seeking rehearing or reconsideration, including any alleged error in the adjudication. If the adjudication is sought to be vacated, reversed or modified by reason of matters that have arisen since the hearing and decision, the matters relied upon by the petitioner must be set forth in the application.

APPEAL TO BOARD

An application to the State Board of Medicine for review of the hearing examiner's adjudication and order must be filed by a party within 20 days after the mailing date of this adjudication and order. The application should be captioned "Application for Review." It must state specifically and concisely, in numbered paragraphs, the grounds relied upon in seeking the Board's review of the hearing examiner's decision, including any alleged error in the adjudication. Within an application for review a party may request that the Board hear additional argument and take additional evidence.

An application to the Board to review the hearing examiner's decision may be filed irrespective of whether an application to the hearing examiner for rehearing or reconsideration is filed.

STAY OF HEARING EXAMINER'S ORDER

Neither the filing of an application for rehearing and/or reconsideration nor the filing of an application for review operates as a stay of the hearing examiner's order. To seek a stay of a hearing's examiner's order, the party must file an application for stay directed to the hearing examiner. If the hearing examiner denies the stay, an application for stay directed to the Board may then be filed.

FILING AND SERVICE

An original and three copies of all applications shall be filed with Deanna S. Walton, Prothonotary, P O Box 2649, Harrisburg, Pennsylvania 17105-2649. A copy of applications must also be served on all parties.

Applications must be received for filing by the Prothonotary within the time limits specified. The date of receipt at the office of Prothonotary, and not the date of deposit in the mail, is determinative. The filing of an application for rehearing and/or reconsideration does not extend, or in any other manner affect, the time period in which an application for review may be filed.

STATUTES AND REGULATIONS

Statutes and regulations relevant to post-hearing procedures are the Medical Practice Act of 1985 at 63 P.S. §§422.1-422.45; Section 905 of the Health Care Services Malpractice Act, 40 P.S. §1301.905; and the General Rules of Administrative Practice and Procedure at 1 Pa. Code Part II, to the extent the rules are consistent with regulations promulgated by the Board or provisions of the Medical Practice Act of 1985 or the Health Care Services Malpractice Act.

Not having an attorney will not be accepted as an excuse for failing to comply with the requirements contained in these notice provisions or relevant statutes and regulations.



State Medical Board of Ohio

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

February 13, 2002

Philip G. Wagman, M.D.
P. O. Box 5529
New Castle, PA 16105

Dear Doctor Wagman:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on February 13, 2002, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

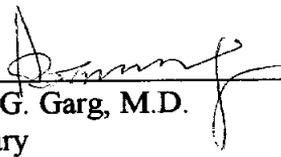
CERTIFIED MAIL RECEIPT NO. 7000 0600 0024 5146 8999
RETURN RECEIPT REQUESTED

Mailed 2-15-02

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on February 13, 2002, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Philip G. Wagman, 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.



Anand G. Garg, M.D.
Secretary

(SEAL)

February 13, 2002

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

PHILIP G. WAGMAN, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on February 13, 2002.

Upon the Report and Recommendation of R. Gregory Porter, 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 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. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Philip G. Wagman, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED, and Dr. Wagman's certificate shall be SUSPENDED for an indefinite period of time, but not less than six months.
- B. **INTERIM MONITORING:** During the period that Dr. Wagman's certificate to practice medicine and surgery in Ohio is suspended, Dr. Wagman shall comply with the following terms, conditions, and limitations:
1. **Obey the Law:** Dr. Wagman shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
 2. **Personal Appearances:** Dr. Wagman shall appear in person for an interview before the full Board or its designated representative. The first such appearance shall take place on the date his appearance would have been scheduled pursuant to his April 11, 2001, Step II Consent Agreement with the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested 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.
 3. **Quarterly Declarations:** Dr. Wagman shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The

first quarterly declaration must be received in the Board's offices on the date his quarterly declaration would have been due pursuant to his April 11, 2001, Step II Consent Agreement with the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

4. **Abstention from Drugs**: Dr. Wagman shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Dr. Wagman's history of chemical dependency.
5. **Abstention from Alcohol**: Dr. Wagman shall abstain completely from the use of alcohol.
6. **Drug & Alcohol Screens; Supervising Physician**: Dr. Wagman shall submit to random urine screenings for drugs and/or alcohol on a weekly basis or as otherwise directed by the Board. Dr. Wagman 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 days of the effective date of this Order, or as otherwise determined by the Board, Dr. Wagman shall submit to the Board for its prior approval the name of a supervising physician to whom Dr. Wagman shall submit the required specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Wagman. Dr. Wagman and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Dr. Wagman shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Wagman must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Wagman shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her 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 Dr. Wagman's quarterly declaration. It is Dr. Wagman's responsibility to ensure that reports are timely submitted.

7. **Submission of Blood or Urine Specimens upon Request:** Dr. Wagman shall submit blood and urine specimens for analysis without prior notice at such times as the Board may request, at Dr. Wagman's expense.
8. **Psychiatric Treatment:** Within thirty days of the effective date of this Order, Dr. Wagman shall submit to the Board for its prior approval the name and qualifications of a psychiatrist of his choice. Upon approval by the Board, Dr. Wagman shall undergo and continue psychiatric treatment, to include psychodynamic individual psychotherapy at least once every month, or as otherwise directed by the Board; take medications as prescribed and/or ordered for his psychiatric disorder; and otherwise comply with his psychiatric treatment plan.

Dr. Wagman 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 Dr. Wagman's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Wagman's compliance with his treatment plan; Dr. Wagman's mental status; Dr. Wagman's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Wagman shall ensure that his treating psychiatrist immediately notifies the Board of Dr. Wagman's failure to comply with his psychiatric treatment plan and/or any determination that Dr. Wagman is unable to practice.

The psychotherapy required pursuant to this paragraph may be delegated by Dr. Wagman's treating psychiatrist to an appropriately licensed psychologist approved in advance by the Board, so long as Dr. Wagman's treating psychiatrist oversees/supervises such psychotherapy, includes information in his reports concerning Dr. Wagman's participation and progress in psychotherapy, and continues to meet personally with Dr. Wagman at least once per month.

Should the psychotherapy required pursuant to this provision be delegated to a psychologist, Dr. Wagman shall ensure that psychotherapy reports are forwarded to the Board by his treating psychologist on a quarterly basis, or as otherwise directed by the Board. The psychotherapy reports shall contain information describing Dr. Wagman's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Wagman's compliance with his treatment plan; Dr. Wagman's mental status; Dr. Wagman's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Wagman shall ensure that his treating psychologist immediately notifies the Board of Dr. Wagman's failure to comply with his psychiatric treatment plan and/or any determination that Dr. Wagman is unable to practice. These psychotherapy reports shall be in addition to the psychiatric reports.

It is Dr. Wagman's responsibility to ensure that quarterly reports (psychiatric and psychotherapy, if applicable) are received in the Board's offices no later than the due date for Dr. Wagman's quarterly declarations.

9. **Additional Treatment**: Dr. Wagman shall comply with the plan for treatment of his diagnosed Hashimoto's Thyroiditis and related controlled hypothyroidism as recommended by Suman K. Mishr, M.D., or, during subsequent time periods, the treatment plan recommended by any subsequent physicians providing evaluation of Dr. Wagman's diagnosed Hashimoto's Thyroiditis and related controlled hypothyroidism in accordance with the following provision:

On an annual basis in April 2002, 2003, 2004, 2005, 2006, and 2007, or as otherwise directed by the Board, Dr. Wagman shall submit to an evaluation by Dr. Mishr, or another physician knowledgeable in the area of endocrinology and approved in advance by the Board to conduct such evaluation, for purposes of assessing the effectiveness of his treatment plan and making any appropriate modifications to his treatment plan. All assessments will be at Dr. Wagman's own expense. Within thirty days following each such evaluation, Dr. Wagman shall ensure that a report is forwarded by his assessing physician to the Board. These reports shall contain information describing Dr. Wagman's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Wagman's status; Dr. Wagman's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Wagman shall ensure that his assessing physician immediately notifies the Board of any determination that Dr. Wagman is unable to practice medicine due to his thyroid disorders and related conditions.

10. **Physicians Health Program**: Dr. Wagman shall maintain continued compliance with the term of his advocacy contract entered into with the Ohio Physicians Effectiveness Program or, if approved in advance by the Board, another appropriate physicians health program, provided that, where terms of the advocacy contract conflict with terms of this Order, the terms of this Order shall control.
11. **Releases**: Dr. Wagman shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment providers to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for them to fulfill their respective duties and obligations.

- C. **REQUIREMENTS FOR REINSTATEMENT OR RESTORATION**: The Board shall not consider reinstatement or restoration of Dr. Wagman's certificate to practice medicine and surgery until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration**: Dr. Wagman shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Compliance with Interim Conditions**: Dr. Wagman shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.
 3. **Additional Evidence of Fitness To Resume Practice**: In the event that Dr. Wagman 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.
- D. **PROBATION**: Upon reinstatement or restoration, Dr. Wagman's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
1. **Terms, Conditions, and Limitations Continued from Suspension Period**: Dr. Wagman shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
 2. **Modification of Terms**: Dr. Wagman shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations.
 3. **Monitoring Physician**: Before engaging in any medical practice, Dr. Wagman shall submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a physician who practices in the same locale as Dr. Wagman and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Wagman and his medical practice, and shall review Dr. Wagman's patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Wagman and his medical practice, and on the review of Dr. Wagman's patient charts. Dr. Wagman shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Wagman's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Wagman must immediately so notify the Board in writing. In addition, Dr. Wagman shall make arrangements

acceptable to the Board for another monitoring physician within thirty days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Wagman shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

4. **Controlled Substances Log:** Dr. Wagman shall keep a log of all controlled substances he prescribes. Such log shall be submitted in a format approved by the Board thirty days prior to Dr. Wagman's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Wagman shall make his patient records with regard to such controlled substances available for review by an agent of the Board upon request.
5. **Ban on Purchasing, Administering, Furnishing, or Possessing Controlled Substance; Log:** Dr. Wagman shall not, without prior Board approval, administer, personally furnish, or possess (except as allowed under Paragraph B.4) any controlled substances as defined by state or federal law.

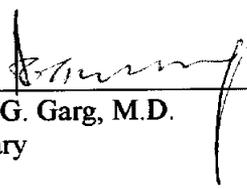
In the event that the Board agrees at a future date to modify this Order to allow Dr. Wagman to administer or personally furnish controlled substances, Dr. Wagman shall keep a log of all controlled substances administered or personally furnished. Such log shall be submitted in a format approved by the Board thirty days prior to Dr. Wagman's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Wagman shall make his patient records with regard to such prescribing, administering, or personally furnishing available for review by an agent of the Board upon request.

6. **Tolling of Probationary Period While Out of State:** In the event that Dr. Wagman should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Wagman must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
7. **Noncompliance Will Not Reduce Probationary Period:** In the event Dr. Wagman is found by the Secretary of the Board to have failed to comply with any provision of this Order, 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 this Order.
8. **Violation of Terms of Probation:** If Dr. Wagman violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may set aside the stay order and impose the permanent revocation of Dr. Wagman's certificate.

- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Wagman's certificate will be fully restored.
- F. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Wagman 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. Wagman 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.
- G. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Wagman 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. Wagman 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 or restoration of any professional license. Further, Dr. Wagman shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board.

EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon the mailing of notification of approval by the Board.

(SEAL)



Anand G. Garg, M.D.
Secretary

February 13, 2002

Date

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**REPORT AND RECOMMENDATION
IN THE MATTER OF PHILIP G. WAGMAN, M.D.**

The Matter of Philip G. Wagman, M.D., was heard by R. Gregory Porter, Attorney Hearing Examiner for the State Medical Board of Ohio, on November 19, 2001.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated September 12, 2001, the State Medical Board of Ohio [Board] notified Philip G. Wagman, M.D., that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board's action was based on alleged violation of the conditions of limitation imposed on Dr. Wagman's certificate by an April 2001 consent agreement, due to a urine toxicology screen that tested positive for alcohol, and Dr. Wagman's admission that he had self-treated with antihypertensives and nitroglycerin agents. Further, the Board alleged that Dr. Wagman's acts, conduct, and/or omissions constitute "[v]iolation of the conditions of limitation placed by the board upon a certificate to practice' as that clause is used in Section 4731.22(B)(15), Ohio Revised Code." Accordingly, the Board advised Dr. Wagman of his right to request a hearing in this matter. (State's Exhibit 1A)
- B. By document received by the Board on October 3, 2001, Dr. Wagman requested a hearing. (State's Exhibit 1B)

II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Mark A. Michael, Assistant Attorney General.
- B. On behalf of the Respondent: Dr. Wagman, having been previously notified of his right to be represented by an attorney, represented himself at the hearing.

EVIDENCE EXAMINED

I. Testimony Heard

- A. Presented by the State
 - 1. Danielle Bickers

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2. Philip G. Wagman, M.D., as upon cross-examination

B. Presented by the Respondent

1. Philip G. Wagman, M.D.

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A through 1H: Procedural exhibits.
2. State's Exhibit 2: Certified copies of Dr. Wagman's May 10, 2000, and April 11, 2001, Consent Agreements with the Board.
3. State's Exhibit 3: Copies of two September 3, 2001, letters to the Board from Dr. Wagman, and a copy of a urine toxicology report for Dr. Wagman.

B. Presented by the Respondent

1. Respondent's Exhibit B: October 31, 2001, letter to the Board from Dr. Wagman, with attached copies of an October 16, 2001, letter to the Board from Douglas W. Kramer, Psy.D., OSU Harding Outpatient Service, Columbus, Ohio; and a report of an evaluation by the Addiction Programs of Mahoning County, Inc.
2. Respondent's Exhibit C: September 3, 2001, letter to the Board from Dr. Wagman with the following attachments: (a) copy of a January 26, 2001, letter to the Board from Terence Heltzel, Ph.D., Clinical Psychologist, PsyCare, Inc., Warren, Ohio; (b) copy of an August 7, 2000, letter from Suman K. Mishr, M.D., Assistant Clinical Professor of Medicine, North East Ohio Universities College of Medicine; (c) copy of a June 14, 2000, letter to the Board from Charles J. Engel, M.D., Professional Recovery Network, Waukesha, Wisconsin; (d) copy of a July 24, 2000, letter to the Board from Robert A. Liebelt, Ph.D., M.D., Medical Director, Ignatia Hall Alcohol and Drug treatment Center; (e) copy of an August 12, 2000, letter to the Board from William M. Watson, M.D., Rogers Memorial Hospital, Oconomowoc, Wisconsin; (f) copy of a November 1, 2000, letter to the Board from Ralph G. Walton, M.D., concerning his psychiatric evaluation of Dr. Wagman; (g) copy of a June 7, 2000, Neuropsychological Evaluation of Philip Wagman, M.D., by Robert M. Dries, Ph.D.; (h) copy of a July 18, 2000, Confidential Ohio Physicians Effectiveness Program Advocacy Contract with Dr. Wagman; (i) copies of progress notes dated July 31, and August 20, 2001, by Dr. Kramer; (j) copy of a

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July 18, 2001, letter to the Board from Michael Schottenstein, M.D.; and (k) copy of an August 31, 2001, urine toxicology report.

3. Respondent's Exhibit D: Copy of a December 17, 2001, letter to the Board from Dr. Wagman.

PROFFERED EXHIBITS

The following exhibit was neither admitted to the hearing record nor considered, but is being sealed and held as proffered material for the Respondent:

Respondent's Exhibit A: Collection of documents concerning nuclear medicine and relating to Dr. Wagman's grievance concerning the state of nuclear medicine.

PROCEDURAL MATTERS

1. On December 11, 2001, the hearing record was reopened to consider the admission of additional evidence to the record. The evidence in question consists of documents submitted by the Respondent at hearing, but denied admission to the record and held as proffered material on the Respondent's behalf. No objection was received from either party, and the evidence was admitted to the record as Respondent's Exhibits B and C. The record closed on December 18, 2001. (See State's Exhibit 1G)
2. On January 9, 2002, the hearing record was again reopened to consider the admission to the record of a December 24, 2001, letter to the Board from the Respondent. No objection was received from either party, and the evidence was admitted to the record as Respondent's Exhibit D. The record closed on January 15, 2002. (See State's Exhibit 1H)

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. In an October 31, 2001, letter to the Board, Philip G. Wagman, M.D., stated that he had grown up in New Castle, Pennsylvania, and that his father had been a pathologist. Dr. Wagman further stated that he had grown up "with every expectation of being a prominent national level practitioner in whatever specialty [he] chose." However, Dr. Wagman also stated that, in 1973, his father had passed away from a sudden heart attack when Dr. Wagman was 15 years old. Dr. Wagman stated, "After this personal catastrophe I

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became determined to pursue medicine with a single minded focus of personal endeavor seen only in men of many years my senior.” Dr. Wagman stated that he completed his bachelor’s degree program *summa cum laude* in three years. Dr. Wagman further stated that he had obtained his medical degree with honors in 1984 from Hahnemann Medical College in Philadelphia, Pennsylvania. Following medical school, Dr. Wagman completed a rotating internship, two years residency in pathology, and three years residency in nuclear medicine. Moreover, Dr. Wagman stated, “[d]uring my residency I personally qualified on the interpretation of over 100,000 individual studies and cancer therapies.” Finally, Dr. Wagman stated that he was board certified in nuclear medicine. (Respondent’s Exhibit [Resp. Ex.] B)

In his October 31, 2001, letter, Dr. Wagman further stated:

[Nuclear medicine] is a very sophisticated field involving the use of medically unstable radioactive isotopes bound to biological tracers. The tracers follow biochemical pathways in the body and produce radiation picked up by expensive detectors known as gamma cameras. The procedures are supervised and the images produced are interpreted by the nuclear medicine physician, and a written report is then issued to the ordering (referring) physician. The newly emerging area is the use of radioisotopes bound to tumor specific antibodies which target and destroy malignant tumors.

(Resp. Ex. B)

Finally, Dr. Wagman stated that, following residency, he returned to New Castle and established a small, independent nuclear medicine service in a 200 bed local hospital. (Resp. Ex. B)

2. In his October 31, 2001, letter to the Board, Dr. Wagman also stated that his practice in New Castle went well for about four years. After about four years, however, his hospital merged with a much larger hospital in Pittsburgh, Pennsylvania. Dr. Wagman stated:

Shortly thereafter, cardiac specialists from Pittsburgh successfully lobbied the hospital for privileges to interpret and bill for the reading fee portion of their self referred nuclear cardiac studies. These are commonly called ‘Thallium or Cardiolyte studies.’ They are definitive in identifying cardiac blood flow abnormalities and are central to the performance of more costly follow up cardiac catheterization procedures. Their arrangement would effectively reward the referring physicians with a high dollar reading fee in exchange for the referral of the patient to the hospital diagnostic equipment whereby the hospital would receive a similar respective high dollar procedure fee while eliminating the participation of the truly best trained expert, i.e. the nuclear medicine physician or the radiologist. The arrangement would also consolidate the decision ordering process of the more costly catheterization

procedures into the control of the referring clinical physicians. This was to be arranged with little or no nuclear medicine residency training on the part of the clinical doctors, without Nuclear Regulatory Commission isotope licensure of the interpreting doctor, and without supervision of the patient by the interpreting physician during the procedure. I protested this arrangement on ethical and quality control concerns. Unfortunately, due to lax regulatory oversight by State Boards of Medicine, ineffective enforcement by HICFA, (the federal agency that investigates Medicare fraud and abuse) and loopholes in NRC licensure regulations I could do nothing but vainly protest and watch control and interpretive diagnosis of critical studies in my nuclear medicine department pass into the hands of untrained clinical physicians, in exchange for fee splitting arrangements. Sadly, this lucrative and abusive arrangement has spread in the ensuing years to almost every hospital in the country.

(Resp. Ex. B) Dr. Wagman stated that he left New Castle in 1993 and moved to rural Nebraska where he worked as a solo general practitioner. Dr. Wagman indicated that he enjoyed the work but, in 1997, at the behest of his girlfriend, he moved to Florida to practice in an urgent care center. Dr. Wagman stated that, at that time, he encountered “managed care panels which balked at reimbursing me for my office visits since I was not residency trained in family practice or internal medicine.” Dr. Wagman stated that he then

aggressively lobbied hospitals around Florida for privileges in nuclear medicine explaining how their equipment in the hands of properly trained experts could provide much higher levels of care and diagnostic value. Unfortunately, I was confronted by competing clinical physicians who could provide the hospitals with patients in exchange for reading fees, regardless of their lack of training, lack of board certification in nuclear medicine, lack of NRC licensure, and lack of physician supervision of the patient during the procedure.

(Resp. Ex. B; Hearing Transcript [Tr.] at 28)

In his October 31, 2001, letter, Dr. Wagman stated that he came to recognize that he would be unable to secure a position in nuclear medicine. Dr. Wagman stated:

[I realized that] I should retrain in a less politically sensitive specialty[.] * * *
However, because of Medicare rules prohibiting second residencies I have found it impossible to secure a residency position in any specialty. I suddenly found myself outside the marketable realm of clinical medicine and I worked backwater and welfare general medicine clinics for the next several years trying to avoid managed care reimbursement markets with no hope of retraining.

(Resp. Ex. B)

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Finally, in his October 31, 2001, letter, Dr. Wagman stated that his mother had passed away in 1998 following a lengthy illness. Dr. Wagman stated that, following his mother's death, he had continued to face unemployment as a physician, "and began to engage in destructive psychological dwelling and suicidal ideation." Dr. Wagman stated that this culminated in a suicide attempt in January 2000. (State's Exhibit [St. Ex.] 2; Resp. Ex. B)

Dr. Wagman testified at hearing that, at the time that he attempted suicide, he had been suffering from situational and career related depression, as well as from hypothyroid psychosis. Dr. Wagman further testified that he had been "thoroughly out of [his] mind at that time[.]" Dr. Wagman stated that he had sat in a closet for three days with a gun, but finally decided instead to end his life by taking an overdose of drugs. Dr. Wagman testified that he had been found in a hotel room in a comatose state, and that he had remained in a comatose state in a hospital for seven days. Finally, Dr. Wagman testified that, when he came out of the coma, he was placed in a psychiatric ward, and the Board became involved. (Tr. at 19-21)

3. On May 10, 2000, Dr. Wagman entered into a Step I Consent Agreement with the Board. The Step I Consent Agreement was based upon violations of Sections 4731.22(B)(3), (10), (11), (19), and (26), Ohio Revised Code. Further, in the Step I Consent Agreement, Dr. Wagman made the following admissions:

- Dr. Wagman "has been abusing alcohol and drugs, and * * * has been in a state of depression over the past year."
- On or about January 24, 2000, Dr. Wagman had attempted to commit suicide by ingesting unknown amounts of crack cocaine, alcohol, Diazepam, and OxyContin.
- On or about March 27, 2000, in the City of Girard Municipal Court, Girard, Ohio, Dr. Wagman pleaded guilty to one count of violating Section 2925.11, Ohio Revised Code, Drug Abuse, a misdemeanor of the third degree; and one count of violating Section 2925.14, Ohio Revised Code, Drug Paraphernalia Offenses, a misdemeanor of the fourth degree. The court held his guilty pleas under advisement pending Dr. Wagman's completion of one year of probation.

(St. Ex. 2 at 16-18)

In the Step I Consent Agreement, Dr. Wagman agreed to certain specified terms, conditions, and limitations, including that his certificate to practice medicine and surgery in Ohio would be suspended for an indefinite period of time, but for not less than six months. (St. Ex. 2 at 18-24)

4. On April 11, 2001, Dr. Wagman entered into a Step II Consent Agreement with the Board. In the Step II Consent Agreement, Dr. Wagman's certificate to practice medicine and

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surgery in Ohio was reinstated, and Dr. Wagman agreed to be subject to certain specified probationary terms, conditions, and limitations for a minimum of five years. (St. Ex. 2 at 2-15) These probationary requirements include the following:

“8. DR. WAGMAN shall abstain completely from the personal use or possession of drugs, except those prescribed, personally furnished or administered to him by another so authorized by law who has full knowledge of DR. WAGMAN’s history;

“9. DR. WAGMAN shall abstain completely from the use of alcohol.”

(St. Ex. 2 at 8) (Emphasis in original) The Step II Consent Agreement further required, among other things, that Dr. Wagman submit to weekly random urine screens; that he obtain psychiatric treatment, including psychodynamic individual psychotherapy; and that he continue with treatment for Hashimoto’s Thyroiditis and related controlled hypothyroidism as recommended by Suman K. Mishr, M.D., or another endocrinologist approved in advance by the Board, and submit to annual evaluations. (St. Ex. 2 at 8-11)

5. Dr. Wagman testified that the Board getting involved was “the best thing that ever happened” because Dr. Wagman had been in need of an intervention to get help. Dr. Wagman testified that a thyroid problem had been causing him to feel horrible but he had not known the reason. Dr. Wagman testified that, with the thyroid problem, “You get fluid in your tissues and you get fluid in the brain and nothing works real good.” (Tr. at 21) Dr. Wagman testified that he does not believe that he is alcohol dependent or chemically dependent, but that he does suffer from depression. Dr. Wagman testified that depression is an “insidious” and “truly horrible” illness. (Tr. at 21-22)
6. On July 18, 2000, Dr. Wagman entered into an advocacy contract with the Ohio Physicians Effectiveness Program [OPEP]. Dr. Wagman’s contract with OPEP required, among other things, periodic psychiatric and addiction counseling; random, weekly toxicology screens; and abstention from all mood-altering drugs. (Resp. Ex. C)
7. Danielle Bickers testified that she is the Compliance Officer for the Board, and that she has held that position since September 1999. (Tr. at 12)

Ms. Bickers testified that Dr. Wagman had contacted her in September 2001 by telephone and by letter to inform her of a urine screen that tested positive for alcohol. Ms. Bickers testified that Dr. Wagman had informed her that he had been experiencing chest pains, had self-administered “nitro tabs,” which did not help, and that he had purchased a bottle of wine and consumed a few glasses. Ms. Bickers further testified that Dr. Wagman had told her he had ingested alcohol knowing that the drug screen he was going to submit the following day would test positive for alcohol. Finally, Ms. Bickers testified that Dr. Wagman’s Consent Agreement had required him to abstain completely from consuming alcohol. (Tr. at 12-14)

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8. In two letters dated September 3, 2001, Dr. Wagman informed the Board that he had violated the terms of his Consent Agreement. Dr. Wagman enclosed his license placard and wallet card. He stated, "I have not and will not practice medicine until I hear from the Board." (St. Ex. 3 at 1) Dr. Wagman further enclosed a copy of a urine toxicology report dated August 31, 2001, that indicated a positive result for alcohol for a sample taken on August 21, 2001. (St. Ex. 3 at 3) Moreover, Dr. Wagman provided the following explanation:

About 4-5 weeks ago I began experiencing and continue to have what I believe are symptoms of cardiac insufficiency which worsened acutely about 10 days ago. I have been treating myself with antihypertensives, and nitroglycerin agents, which are office samples retained from my prior practice. One evening I experienced a very sharp intense pressure in my chest which responded only partially to sublingual nitrotabs. I went to the grocery store around the corner from where I live and purchased a small bottle of red wine and ingested 2-3 glasses and at the same time took another nitrotab which relieved the pressure and disposed of the remaining bottle contents. I have a positive family history for rampant heart disease with the death of my physician father at age 44 from a sudden massive heart attack and with my uncle having his first heart attack at age 38. I have also been hypothyroid for the last year and a half with a significantly elevated cholesterol due to chronic thyroid failure and I have an abnormal cardiogram with left ventricular thickening and a history of hypertension. Prior to and since this event I have not consumed any alcohol and have scheduled myself for a cardiac exam with a local specialist.

Please understand I am grateful to the Board for their help in assisting my current situation. Please inform me of your decision so I can comply with the Board Order.

(St. Ex. 3 at 2; Resp. Ex. C)

Dr. Wagman acknowledged at hearing that he had violated his Consent Agreement with the Board by ingesting alcohol and by taking medication that had not been prescribed to him by another physician. (Tr. at 17)

9. Concerning his violation of the Consent Agreement, Dr. Wagman stated, in his October 31, 2001, letter:

I knowingly violated the Board consent order as I am treating myself with medications for my heart without Board consent. I am doing this because my current financial situation is quite tenuous as per my medical insurance being

limited at this time. If I do not treat myself through professional courtesy arrangements I will be listed with a preexisting heart condition and will be unable to procure the necessary testing and treatment I need in the near future.

(Resp. Ex. B) Dr. Wagman testified at hearing that, as of the time of the hearing, he was continuing to treat himself with Capoten. Dr. Wagman stated that he was aware that that violated his Consent Agreement with the Board. Dr. Wagman further testified that he would "make it a priority" to obtain the necessary insurance and see the appropriate physicians. (Tr. at 45-52)

Subsequent to the hearing, in a December 17, 2001, letter to the Board, Dr. Wagman stated that he had "stopped this practice of taking these needed medicines and * * * will refrain from taking any medications unless properly prescribed by a physician." (Resp. Ex. D)

Dr. Wagman acknowledged that it had been bad judgment for him to treat himself with nitro tabs and wine when he experienced chest pain, rather than to obtain emergency medical care, but stated that he was concerned about having a cardiac condition listed as a preexisting condition for insurance purposes. (Tr. at 51)

10. Dr. Wagman provided copies of reports of several psychiatric evaluations that had occurred between June 2000 and January 2001. These evaluations indicate that Dr. Wagman suffers from depression, which was in remission; and from chronic hypothyroidism due to Hashimoto's Thyroiditis. Some indicate that substance abuse should be ruled out. One report, dated July 24, 2000, from Robert A. Liebelt, Ph.D., M.D., Medical Director, Ignatia Hall Alcohol and Drug Treatment Center, found no clinical basis to support a diagnosis of substance abuse disorder, but concurred with the requirements set forth in a July 18, 2000, advocacy contract between Dr. Wagman and OPEP. (Resp. Ex. C)

Dr. Wagman further provided copies of the following reports that postdate his August 2001 Consent Agreement violation:

- a. In an October 16, 2001, quarterly summary sent to the Board by Douglas W. Kramer, Psy.D., OSU & Harding Behavioral Healthcare and Medicine, Dr. Kramer indicated that he had seen Dr. Wagman for psychotherapy sessions on five occasions between July 31 and October 15, 2001. Dr. Kramer indicated that his diagnoses were: (1) Occupational Problem; (2) Major Depression, Single Episode, In Full Remission; and (3) Hashimoto's Thyroiditis controlled with medication. Dr. Kramer further stated that Dr. Wagman's episode of depression had resolved. Moreover, Dr. Kramer stated that his treatment of Dr. Wagman consisted of providing Dr. Wagman with support for his career difficulties relating to licensure and credentialing. (Resp. Ex. B)

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- b. From October 16 through 19, 2001, Dr. Wagman was evaluated at Addiction Programs of Mahoning County, Inc. The report of that evaluation states that Dr. Wagman “continues to have problems in the areas of depression (by client report), unresolved shame and guilt, minimal support network, and he will need continued work in these areas following discharge.” Moreover, the report indicated that Dr. Wagman had been cooperative and had appeared to be committed to ongoing recovery. Finally, the report listed the following discharge recommendations: “(1) Maintain ongoing abstinence from all mood and mind altering chemicals; (2) Continue psychotherapy sessions [at] O.S.U.; and (3) Follow directions of the [Board].” (Resp. Ex. B)
11. At hearing, Dr. Wagman was very focused on obtaining help from the Board concerning his employment difficulties. Dr. Wagman stated that his problems with depression and the suicide attempt stem largely from his difficulty finding employment. Dr. Wagman further stated that his difficulty in finding employment had resulted from health care institutions permitting unqualified and untrained clinical practitioners to take over the day-to-day practice of nuclear medicine, and that this violates laws. Dr. Wagman indicated that he had sent a complaint to the Board concerning this issue, but that the Board had not acted on his complaint except to send him a letter referring him the office of the Ohio Attorney General. At hearing, Dr. Wagman was informed that the Board is not a criminal law enforcement agency, and that the Board had appropriately responded to his complaint by referring him to the Ohio Attorney General. Dr. Wagman was encouraged to follow up with that referral should he desire to pursue his complaint further. (Tr. at 32-45)

FINDINGS OF FACT

1. On or about May 10, 2000, Philip G. Wagman, M.D., entered into a Step I Consent Agreement with the Board in lieu of formal proceedings, based upon Dr. Wagman’s violation of Sections 4731.22(B)(3), (10), (11), (19), and (26), Ohio Revised Code.

In the Step I Consent Agreement, Dr. Wagman made certain admissions, including the following:

- Dr. Wagman had been abusing alcohol and illegal drugs.
- Dr. Wagman had been in a state of depression for the preceding year.
- On or about January 24, 2000, Dr. Wagman had attempted to commit suicide by ingesting unknown amounts of crack cocaine, alcohol, Diazepam, and OxyContin.
- On or about March 27, 2000, in the City of Girard Municipal Court, Girard, Ohio, Dr. Wagman had pleaded guilty to one count of “Drug Abuse,” a third degree

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misdemeanor, and one count of “Drug Paraphernalia Offenses,” a fourth degree misdemeanor.

In the Step I Consent Agreement, Dr. Wagman also agreed to certain specified terms, conditions, and limitations, including that his certificate to practice medicine and surgery in the State of Ohio would be suspended for an indefinite period of time, but not less than six months.

2. On or about April 11, 2001, Dr. Wagman entered into a Step II Consent Agreement with the Board, whereby his certificate to practice medicine and surgery in the State of Ohio was reinstated, and wherein he agreed to certain specified probationary terms, conditions, and limitations.
3. Paragraph 8 of the Step II Consent Agreement states that Dr. Wagman “shall abstain completely from the personal use or possession of drugs, except those prescribed, personally furnished or administered to him by another so authorized by law who has full knowledge of [his] history.”

Despite the requirements of Paragraph 8, Dr. Wagman reported that he had been treating himself with antihypertensives and nitroglycerin agents.

4. Paragraph 9 of the Step II Consent Agreement states that Dr. Wagman “shall abstain completely from the use of alcohol.”

Despite the requirements of Paragraph 9, Dr. Wagman tested positive for alcohol the last week of August 2001. He reported his positive test to the Board in a letter dated September 3, 2001, and stated that he had violated his Consent Agreement. Dr. Wagman explained in his letter that after experiencing “a very sharp intense pressure in [his] chest which responded only partially to sublingual nitrotabs[,] [he] went to the grocery store around the corner from where [he lives] and purchased a small bottle of red wine and ingested 2-3 glasses and at the same time took [a] nitrotab[.]”

CONCLUSIONS OF LAW

The conduct of Philip G. Wagman, M.D., as set forth in Findings of Fact 3 and 4, constitute, “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice” as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

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PROPOSED ORDER

It is hereby ORDERED that:

- A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Philip G. Wagman, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED, and Dr. Wagman's certificate shall be SUSPENDED for an indefinite period of time, but not less than six months.
- B. **INTERIM MONITORING:** During the period that Dr. Wagman's certificate to practice medicine and surgery in Ohio is suspended, Dr. Wagman shall comply with the following terms, conditions, and limitations:
1. **Obey the Law:** Dr. Wagman shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
 2. **Personal Appearances:** Dr. Wagman shall appear in person for an interview before the full Board or its designated representative. The first such appearance shall take place on the date his appearance would have been scheduled pursuant to his April 11, 2001, Step II Consent Agreement with the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested 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.
 3. **Quarterly Declarations:** Dr. Wagman shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on the date his quarterly declaration would have been due pursuant to his April 11, 2001, Step II Consent Agreement with the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
 4. **Abstention from Drugs:** Dr. Wagman shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Dr. Wagman's history of chemical dependency.
 5. **Abstention from Alcohol:** Dr. Wagman shall abstain completely from the use of alcohol.
 6. **Drug & Alcohol Screens; Supervising Physician:** Dr. Wagman shall submit to random urine screenings for drugs and/or alcohol on a weekly basis or as otherwise

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directed by the Board. Dr. Wagman 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 days of the effective date of this Order, or as otherwise determined by the Board, Dr. Wagman shall submit to the Board for its prior approval the name of a supervising physician to whom Dr. Wagman shall submit the required specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Wagman. Dr. Wagman and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Dr. Wagman shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Wagman must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Wagman shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her 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 Dr. Wagman's quarterly declaration. It is Dr. Wagman's responsibility to ensure that reports are timely submitted.

7. **Submission of Blood or Urine Specimens upon Request:** Dr. Wagman shall submit blood and urine specimens for analysis without prior notice at such times as the Board may request, at Dr. Wagman's expense.
8. **Psychiatric Treatment:** Within thirty days of the effective date of this Order, Dr. Wagman shall submit to the Board for its prior approval the name and qualifications of a psychiatrist of his choice. Upon approval by the Board, Dr. Wagman shall undergo and continue psychiatric treatment, to include psychodynamic individual psychotherapy at least once every month, or as otherwise

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directed by the Board; take medications as prescribed and/or ordered for his psychiatric disorder; and otherwise comply with his psychiatric treatment plan.

Dr. Wagman 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 Dr. Wagman's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Wagman's compliance with his treatment plan; Dr. Wagman's mental status; Dr. Wagman's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Wagman shall ensure that his treating psychiatrist immediately notifies the Board of Dr. Wagman's failure to comply with his psychiatric treatment plan and/or any determination that Dr. Wagman is unable to practice.

The psychotherapy required pursuant to this paragraph may be delegated by Dr. Wagman's treating psychiatrist to an appropriately licensed psychologist approved in advance by the Board, so long as Dr. Wagman's treating psychiatrist oversees/supervises such psychotherapy, includes information in his reports concerning Dr. Wagman's participation and progress in psychotherapy, and continues to meet personally with Dr. Wagman at least once per month.

Should the psychotherapy required pursuant to this provision be delegated to a psychologist, Dr. Wagman shall ensure that psychotherapy reports are forwarded to the Board by his treating psychologist on a quarterly basis, or as otherwise directed by the Board. The psychotherapy reports shall contain information describing Dr. Wagman's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Wagman's compliance with his treatment plan; Dr. Wagman's mental status; Dr. Wagman's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Wagman shall ensure that his treating psychologist immediately notifies the Board of Dr. Wagman's failure to comply with his psychiatric treatment plan and/or any determination that Dr. Wagman is unable to practice. These psychotherapy reports shall be in addition to the psychiatric reports.

It is Dr. Wagman's responsibility to ensure that quarterly reports (psychiatric and psychotherapy, if applicable) are received in the Board's offices no later than the due date for Dr. Wagman's quarterly declarations.

9. **Additional Treatment:** Dr. Wagman shall comply with the plan for treatment of his diagnosed Hashimoto's Thyroiditis and related controlled hypothyroidism as recommended by Suman K. Mishr, M.D., or, during subsequent time periods, the treatment plan recommended by any subsequent physicians providing evaluation of

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Dr. Wagman's diagnosed Hashimoto's Thyroiditis and related controlled hypothyroidism in accordance with the following provision:

On an annual basis in April 2002, 2003, 2004, 2005, 2006, and 2007, or as otherwise directed by the Board, Dr. Wagman shall submit to an evaluation by Dr. Mishr, or another physician knowledgeable in the area of endocrinology and approved in advance by the Board to conduct such evaluation, for purposes of assessing the effectiveness of his treatment plan and making any appropriate modifications to his treatment plan. All assessments will be at Dr. Wagman's own expense. Within thirty days following each such evaluation, Dr. Wagman shall ensure that a report is forwarded by his assessing physician to the Board. These reports shall contain information describing Dr. Wagman's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Wagman's status; Dr. Wagman's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Wagman shall ensure that his assessing physician immediately notifies the Board of any determination that Dr. Wagman is unable to practice medicine due to his thyroid disorders and related conditions.

10. **Physicians Health Program**: Dr. Wagman shall maintain continued compliance with the term of his advocacy contract entered into with the Ohio Physicians Effectiveness Program or, if approved in advance by the Board, another appropriate physicians health program, provided that, where terms of the advocacy contract conflict with terms of this Order, the terms of this Order shall control.
 11. **Releases**: Dr. Wagman shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment providers to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for them to fulfill their respective duties and obligations.
- C. **REQUIREMENTS FOR REINSTATEMENT OR RESTORATION**: The Board shall not consider reinstatement or restoration of Dr. Wagman's certificate to practice medicine and surgery until all of the following conditions have been met:
1. **Application for Reinstatement or Restoration**: Dr. Wagman shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Compliance with Interim Conditions**: Dr. Wagman shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.
 3. **Additional Evidence of Fitness To Resume Practice**: In the event that Dr. Wagman 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

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may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.

D. **PROBATION:** Upon reinstatement or restoration, Dr. Wagman's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

1. **Terms, Conditions, and Limitations Continued from Suspension Period:**
Dr. Wagman shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
2. **Modification of Terms:** Dr. Wagman shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations.
3. **Monitoring Physician:** Before engaging in any medical practice, Dr. Wagman shall submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a physician who practices in the same locale as Dr. Wagman and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Wagman and his medical practice, and shall review Dr. Wagman's patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Wagman and his medical practice, and on the review of Dr. Wagman's patient charts. Dr. Wagman shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Wagman's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Wagman must immediately so notify the Board in writing. In addition, Dr. Wagman shall make arrangements acceptable to the Board for another monitoring physician within thirty days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Wagman shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

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4. **Controlled Substances Log**: Dr. Wagman shall keep a log of all controlled substances he prescribes. Such log shall be submitted in a format approved by the Board thirty days prior to Dr. Wagman's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Wagman shall make his patient records with regard to such controlled substances available for review by an agent of the Board upon request.
5. **Ban on Purchasing, Administering, Furnishing, or Possessing Controlled Substance; Log**: Dr. Wagman shall not, without prior Board approval, administer, personally furnish, or possess (except as allowed under Paragraph B.4) any controlled substances as defined by state or federal law.

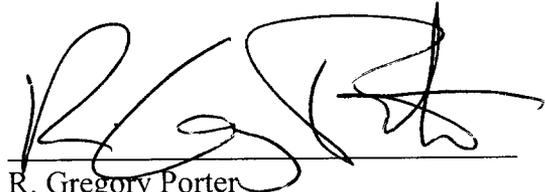
In the event that the Board agrees at a future date to modify this Order to allow Dr. Wagman to administer or personally furnish controlled substances, Dr. Wagman shall keep a log of all controlled substances administered or personally furnished. Such log shall be submitted in a format approved by the Board thirty days prior to Dr. Wagman's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Wagman shall make his patient records with regard to such prescribing, administering, or personally furnishing available for review by an agent of the Board upon request.

6. **Tolling of Probationary Period While Out of State**: In the event that Dr. Wagman should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Wagman must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
 7. **Noncompliance Will Not Reduce Probationary Period**: In the event Dr. Wagman is found by the Secretary of the Board to have failed to comply with any provision of this Order, 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 this Order.
 8. **Violation of Terms of Probation**: If Dr. Wagman violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may set aside the stay order and impose the permanent revocation of Dr. Wagman's certificate.
- E. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Wagman's certificate will be fully restored.

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- F. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Wagman 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. Wagman 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.
- G. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Wagman 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. Wagman 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. Wagman shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board.

EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon the mailing of notification of approval by the Board.



R. Gregory Porter
Attorney Hearing Examiner



State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF FEBRUARY 13, 2002

REPORTS AND RECOMMENDATIONS

Dr. Somani announced that the Board would now consider the findings and orders appearing on the Board's agenda.

Dr. Somani asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matter of John A. Campa, III, M.D.; Khozema Campwala, M.D.; Dannie K. Gipe, Jr., M.D.; Lonnie Marsh, II, M.D.; Arturo Portales, D.O.; Susan M. Stone, M.D.; Stephen J. Sveda, M.D.; Philip G. Wagman, M.D.; and Jimmie Steve Ward, P.A. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Stienecker	- aye
	Dr. Garg	- aye
	Dr. Somani	- aye

Dr. Somani 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. Bhati	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Stienecker	- aye
	Dr. Garg	- aye
	Dr. Somani	- aye

Dr. Somani 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.

Dr. Somani 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.

.....

PHILIP G. WAGMAN, M.D.

.....

DR. TALMAGE MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF PHILIP G. WAGMAN, M.D. MS. SLOAN SECONDED THE MOTION.

.....

A vote was taken on Dr. Talmage's motion to approve and confirm:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Stienecker	- aye
	Dr. Garg	- abstain
	Dr. Somani	- aye

The motion carried.



State Medical Board of Ohio

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September 12, 2001

Philip G. Wagman, M.D.
364 West Lane Avenue
Unit P-2
Columbus, Ohio 43201

Dear Doctor Wagman:

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

- (1) On or about May 10, 2000, you entered into a Step I Consent Agreement with the State Medical Board of Ohio (hereinafter Board) in lieu of formal proceedings based upon your violation of Sections 4731.22(B)(3), (10), (11), (19), and (26), Ohio Revised Code.

In this Step I Consent Agreement you made certain admissions, including that you had been abusing alcohol and illegal drugs; that you had been in a state of depression for the past year; that you attempted to commit suicide on or around January 24, 2000, by ingesting unknown amounts of crack cocaine, alcohol, Diazepam, and Oxycontin; and that you pleaded guilty to one count of "Drug Abuse," a third degree misdemeanor, and one count of "Drug Paraphernalia Offenses," a fourth degree misdemeanor.

In this Step I Consent Agreement, you also agreed to certain specified terms, conditions, and limitations, including that your certificate to practice medicine and surgery in the State of Ohio would be suspended for an indefinite period of time, but not less than six months. A copy of the Step I Consent Agreement is attached hereto and fully incorporated herein.

- (2) On or about April 11, 2001, you entered into a Step II Consent Agreement with the Board, whereby your certificate to practice medicine and surgery in the State of Ohio was reinstated and wherein you agreed to certain specified probationary terms, conditions, and limitations. A copy of this Step II Consent Agreement is attached hereto and fully incorporated herein.

Mailed 9.13.01

To date you remain subject to all terms of the Step II Consent Agreement.

- (3)(a) Paragraph 9 of this Step II Consent Agreement states that you “shall abstain completely from the use of alcohol.”
- (b) Paragraph 8 of this Step II Consent Agreement states that you “shall abstain completely from the personal use or possession of drugs, except those prescribed, personally furnished or administered to [you] by another so authorized by law who has full knowledge of [your] history.”
- (c) Despite the requirements of Paragraph 9, you tested positive for alcohol the last week of August 2001. You reported your positive test to the Board in a letter dated September 3, 2001, and stated that you violated your Consent Agreement. You explained in this letter that after experiencing “a very sharp intense pressure in [your] chest which responded only partially to sublingual nitrotabs[,] [you] went to the grocery store around the corner from where [you] live and purchased a small bottle of red wine and ingested 2-3 glasses and at the same time took [a] nitrotab....”

In addition, despite the requirements of Paragraph 8, you reported that you have been treating yourself with antihypertensives and nitroglycerin agents obtained from office sample stock of your prior practice.

Your acts, conduct, and/or omissions as alleged in paragraph (3), above, individually and/or collectively, constitute “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice” as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

You are further advised that, 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 (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

PHILIP G. WAGMAN, M.D.

Page 3

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, effective March 9, 1999, 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,

A handwritten signature in black ink, appearing to read "Anand G. Garg".

Anand G. Garg, M.D.
Secretary

AGG/bjs
Enclosures

CERTIFIED MAIL #7000 0600 0024 5147 0718
RETURN RECEIPT REQUESTED

STEP II
CONSENT AGREEMENT
BETWEEN
PHILIP GARY WAGMAN, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

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

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

BASIS FOR ACTION

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

- A. THE STATE MEDICAL BOARD OF OHIO is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, permanently revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for a violation of Section 4731.22(B)(3), Ohio Revised Code, "selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug," to wit: Sections 2925.11 and 2925.14, Ohio Revised Code; Section 4731.22(B)(10), Ohio Revised Code, "commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," to wit: Section 2925.11(C)(1)(a), Ohio Revised Code, "Drug Abuse;" Section 4731.22(B)(11), Ohio Revised Code, "a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction for, a misdemeanor committed in the course of practice," to wit: Section 2925.11(C)(2)(a), Ohio Revised Code, "Drug Abuse;" Section 4731.22(B)(19), Ohio Revised Code, "inability to practice according to acceptable and prevailing standards of care by reason of

mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills;" and Section 4731.22(B)(26), Ohio Revised Code, "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)(3), (10), (11), (19), and (26), Ohio Revised Code, as set forth in Paragraph E of the May 2000 Consent Agreement between PHILIP GARY WAGMAN, M.D., and THE STATE MEDICAL BOARD OF OHIO, a copy of which is attached hereto and incorporated herein, and based upon the stipulations set forth in Paragraphs D, E, F, G, H, and I, below. 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 Agreement.
- C. PHILIP GARY WAGMAN, 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 May 2000 Consent Agreement.
- D. PHILIP GARY WAGMAN, M.D., STATES and THE STATE MEDICAL BOARD OF OHIO ACKNOWLEDGES that DOCTOR WAGMAN has substantially complied with the reinstatement conditions as set forth in his May 2000 Consent Agreement.
- E. By letter dated June 14, 2000, Charles J. Engel, M.D., of the Herrington Recovery Center at Rogers Memorial Hospital, a Board approved treatment provider, notified the Board that DOCTOR WAGMAN was admitted to the Herrington Recovery Center on May 22, 2000, and was discharged with permission on June 14, 2000. In this letter, Dr. Engel noted that DOCTOR WAGMAN was diagnosed with Major Depression, recurrent, single episode, gradually improving; general anxiety disorder; and rule out mixed substance abuse. Dr. Engel added that he could not justify a recommendation of formal treatment either on a residential or outpatient basis for substance abuse or dependency since DOCTOR WAGMAN lacked a diagnosis in those areas. Dr. Engel noted that DOCTOR WAGMAN was also found to have compulsive personality tendencies, although these did not rise to the level of a personality disorder, and hypothyroidism.

Dr. Engle's discharge recommendations for DOCTOR WAGMAN included that DOCTOR WAGMAN abstain completely from the use of alcohol or any other mood altering substances; continue psychiatric and psychotherapeutic follow up; obtain periodic addiction medicine follow up; undergo weekly, random, urine screenings for at least one year; and obtain careful internal medicine/endocrinology follow up with regard to his thyroid status.

F. As DOCTOR WAGMAN was not diagnosed with chemical dependency, the Herrington Recovery Center did not require DOCTOR WAGMAN to enter into an aftercare contract. Nevertheless, on or about July 18, 2000, DOCTOR WAGMAN entered into an advocacy contract with the Ohio Physicians Effectiveness Program (OPEP). Provisions of the OPEP contract included that DOCTOR WAGMAN would attend and participate in all recommended treatments as prescribed by Ralph Walton, M.D., his psychiatrist, and Suman K. Mishr, M.D., his treating physician; abstain from mood altering drugs; and submit random, observed toxicology specimens. OPEP has confirmed that DOCTOR WAGMAN is in compliance with his OPEP advocacy contract.

G. Pursuant to paragraph 8.b.iii. of the May 2000 Consent Agreement, DOCTOR WAGMAN obtained the following evaluations from Board approved treatment providers:

1. By letter dated July 24, 2000, Robert A. Liebelt, Ph.D., M.D., Medical Director of Ignatia Hall Alcohol and Drug Treatment Center, a Board approved treatment provider, notified the Board that he had met with Dr. Wagman on July 12, 2000, to provide a second opinion as to the possible existence of a substance abuse disorder. Dr. Liebelt reported that as a result of such meeting he concurred with the diagnostic formulation provided by Dr. Engel, above, and did not find a clinical basis for a diagnosis of a substance abuse disorder. He also concurred with the requirements set forth in DOCTOR WAGMAN's advocacy contract with OPEP.

By letter dated February 6, 2001, Dr. Liebelt again wrote to the Board at Dr. Wagman's request. In this letter, Dr. Liebelt reported that he had also met with Dr. Wagman on August 18, 2000, and further reported that, "Based upon the August visit with Dr. Wagman during which there was no clinical evidence of a substance abuse disorder, I would be able to state that Dr. Wagman was capable of practicing at the acceptable and prevailing standards of care at that time."

2. By letter dated March 12, 2001, Charles J. Engel, M.D., of the Herrington Recovery Center at Rogers Memorial Hospital, a Board approved treatment provider, notified the BOARD that after having reviewed documentation related to DOCTOR WAGMAN's compliance with recommendations made to him upon his discharge from the Herrington Recovery Center and having again met with DOCTOR WAGMAN on March 12, 2001, he knew of no information which would suggest that Dr. Wagman should not be restored to the practice of medicine, so long as certain provisions for continued treatment and monitoring of Dr. Wagman are in place. Dr. Engel recommended that such treatment and monitoring include individual psychotherapy at least monthly and continued random, witnessed urine drug and alcohol testing.
- H. Pursuant to paragraph 8.b.iv. of the May 2000 Consent Agreement, DOCTOR WAGMAN obtained a psychological evaluation from Ralph G. Walton, M.D., whom the Board had approved for such purpose. By letter dated November 1, 2000, Dr. Walton notified the Board that he had psychiatrically evaluated DOCTOR WAGMAN on that date and that he found that DOCTOR WAGMAN did not present with any current, significant depressive signs or symptoms. Dr. Walton also opined that DOCTOR WAGMAN did not need treatment for depression at that time, and that he did not find any psychiatric contraindication to Dr. Wagman's practice of medicine.

In addition, by letter dated January 26, 2001, Terrence Heltzel, Ph.D., a clinical psychologist, notified the Board that he had interviewed Dr. Wagman on December 14, 2001, and January 22, 2001. Dr. Heltzel reported that as a result of such interviews and his review of additional information, including the results of neuropsychological testing by Robert Dries, Ph.D., in May and June 2000, he found no psychological impediments or barriers to Dr. Wagman's practicing medicine in accordance with acceptable and prevailing standards of care. Dr. Heltzel recommended that Dr. Wagman participate in outpatient psychotherapy.

- I. DOCTOR WAGMAN also provided THE STATE MEDICAL BOARD OF OHIO with a letter from his endocrinologist, Suman K. Mishr, M.D., dated August 7, 2000, summarizing his office visits with Dr. Wagman in June and July 2000. Dr. Mishr diagnosed DOCTOR WAGMAN with controlled hypothyroidism due to chronic Hashimoto's Thyroiditis, for which Dr. Mishr treated him and recommended annual follow up. Dr. Mishr opined that this condition had contributed significantly to many of DOCTOR WAGMAN's mental symptoms, including depression and

psychosis. Dr. Mishr further opined that DOCTOR WAGMAN was fit to practice medicine.

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 PHILIP GARY WAGMAN, M.D., to practice medicine and surgery in the State of Ohio shall be reinstated, and PHILIP GARY WAGMAN, 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 WAGMAN shall obey all federal, state and local laws, and all rules governing the practice of medicine in Ohio, and all terms of probation imposed by the Girard Municipal Court, Trumbull County, Ohio, in criminal case number CRB0000131A.
2. DOCTOR WAGMAN 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 WAGMAN 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 WAGMAN written notification of scheduled appearances, it is DOCTOR WAGMAN'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 WAGMAN shall immediately submit to the BOARD a written request to be notified of his next scheduled appearance;

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

Drug Associated Restrictions

6. DOCTOR WAGMAN shall keep a log of all controlled substances prescribed. Such log shall be submitted in the format approved by the BOARD thirty (30) days prior to DOCTOR WAGMAN 's personal appearance before the BOARD or its designated representative, or as otherwise directed by the BOARD;
7. DOCTOR WAGMAN shall not, without prior BOARD approval, administer, personally furnish, or possess (except as allowed under Paragraph 8 below) any controlled substances as defined by state or federal law. In the event that the BOARD agrees at a future date to modify this CONSENT AGREEMENT to allow DOCTOR WAGMAN to administer or personally furnish controlled substances, DOCTOR WAGMAN shall keep a log of all controlled substances prescribed, administered or personally furnished. Such log shall be submitted in the format approved by the BOARD thirty (30) days prior to DOCTOR WAGMAN 's personal appearance before the BOARD or its designated representative, or as otherwise directed by the BOARD;

Sobriety

8. DOCTOR WAGMAN shall abstain completely from the personal use or possession of drugs, except those prescribed, personally furnished or administered to him by another so authorized by law who has full knowledge of DOCTOR WAGMAN's history;
9. DOCTOR WAGMAN shall abstain completely from the use of alcohol;

Drug and Alcohol Screens/Supervising Physician

10. DOCTOR WAGMAN shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the BOARD. DOCTOR WAGMAN 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 WAGMAN shall submit to the BOARD for its prior approval the name of a supervising physician to whom DOCTOR WAGMAN shall submit the required urine specimens. In approving an individual to serve in this capacity, the BOARD will give preference to a physician who practices in the same locale as DOCTOR WAGMAN. 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 WAGMAN 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 or her responsibilities;

In the event that the designated supervising physician becomes unable or unwilling to so serve, DOCTOR WAGMAN must immediately notify the BOARD in writing, and make arrangements acceptable to the BOARD for another supervising physician as soon as practicable. DOCTOR WAGMAN 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 WAGMAN's quarterly declaration. It is DOCTOR WAGMAN's responsibility to ensure that reports are timely submitted;

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

12. Before engaging in any medical practice, DOCTOR WAGMAN shall submit for the BOARD's prior approval the name of a monitoring physician, who shall review DOCTOR WAGMAN's patient charts and shall submit a written report of such review to the BOARD on a quarterly basis. In approving an individual to serve in this capacity, the BOARD will give preference to a physician who practices in the same locale as DOCTOR WAGMAN and who is engaged in the same or similar practice specialty. Such chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the BOARD. It shall be DOCTOR WAGMAN's responsibility to ensure that the monitoring physician's quarterly reports are submitted to the BOARD on a timely basis;

Further, the monitoring physician shall otherwise monitor DOCTOR WAGMAN and provide the BOARD with quarterly reports on the doctor's progress and status. DOCTOR WAGMAN 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 WAGMAN must immediately so notify the BOARD in writing, and make arrangements acceptable to the BOARD for another monitoring physician as soon as practicable. DOCTOR WAGMAN 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 WAGMAN's quarterly declaration. It is DOCTOR WAGMAN's responsibility to ensure that reports are timely submitted;

Psychiatric Treatment

13. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR WAGMAN 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 WAGMAN shall undergo and continue psychiatric treatment, to include psychodynamic individual psychotherapy at least once every two weeks for the first six months following his reinstatement and at least once every month thereafter, or as otherwise directed by the BOARD; take medications as prescribed and/or ordered for his psychiatric disorder; and otherwise comply with his psychiatric treatment plan.

DOCTOR WAGMAN 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 WAGMAN's current treatment plan and any changes that have been made to the treatment plan since the prior report; DOCTOR WAGMAN's compliance with his treatment plan; DOCTOR WAGMAN's mental status; DOCTOR WAGMAN's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. DOCTOR WAGMAN 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 WAGMAN is unable to practice.

The psychotherapy required pursuant to this paragraph may be delegated by DOCTOR WAGMAN's treating psychiatrist to an appropriately licensed psychologist approved in advance by the BOARD, so long as DOCTOR WAGMAN's treating psychiatrist oversees/supervises such psychotherapy, includes information concerning DOCTOR WAGMAN's participation and progress in psychotherapy in his reports, and continues to meet personally with DOCTOR WAGMAN at least once per month.

Should the psychotherapy required pursuant to this provision be delegated to a psychologist, DOCTOR WAGMAN shall ensure that psychotherapy reports are forwarded by his treating psychologist to the BOARD on a quarterly basis, or as otherwise directed by the BOARD. The psychotherapy reports shall contain information describing DOCTOR WAGMAN's current treatment plan and any changes that have been made to the treatment plan since the prior report; DOCTOR WAGMAN's compliance with his treatment plan; DOCTOR WAGMAN's mental status; DOCTOR WAGMAN's progress in

treatment; and results of any laboratory studies that have been conducted since the prior report. DOCTOR WAGMAN shall ensure that his treating psychologist immediately notifies the Board of his failure to comply with his psychiatric treatment plan and/or any determination that DOCTOR WAGMAN is unable to practice. These psychotherapy reports shall be in addition to the psychiatric reports.

It is DOCTOR WAGMAN's responsibility to ensure that quarterly reports (psychiatric and psychotherapy, if applicable) are received in the BOARD's offices no later than the due date for DOCTOR WAGMAN's quarterly declaration;

Additional Treatment

14. DOCTOR WAGMAN shall comply with the plan for treatment of his diagnosed Hashimoto's Thyroiditis and related controlled hypothyroidism as recommended by Suman K. Mishr, M.D., or, during subsequent time periods, the treatment plan recommended by any subsequent physicians providing evaluation of DOCTOR WAGMAN's diagnosed Hashimoto's Thyroiditis and related controlled hypothyroidism in accordance with the following provision:

On an annual basis in March 2002, 2003, 2004, 2005, and 2006, or as otherwise directed by the BOARD, DOCTOR WAGMAN shall submit to an evaluation by Dr. Mishr, or another physician knowledgeable in the area of endocrinology and approved in advance by the BOARD to conduct such evaluation, for purposes of assessing the effectiveness of his treatment plan and making any appropriate modifications to his treatment plan. All assessments will be at DOCTOR WAGMAN's own expense. Within thirty (30) days following each such evaluation, DOCTOR WAGMAN shall ensure that a report is forwarded by his assessing physician to the BOARD. These reports shall contain information describing DOCTOR WAGMAN's current treatment plan and any changes that have been made to the treatment plan since the prior report; DOCTOR WAGMAN's status; DOCTOR WAGMAN's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. DOCTOR WAGMAN shall ensure that his assessing physician immediately notifies the Board of any determination that DOCTOR WAGMAN is unable to practice due to his thyroid disorders or related conditions.

Physicians Health Program

15. DOCTOR WAGMAN shall maintain continued compliance with the terms of his advocacy contract entered into with the Ohio Physicians Effectiveness Program or, if approved in advance by the BOARD, another appropriate physicians health program, provided that, where terms of the advocacy contract conflict with terms of this CONSENT AGREEMENT, the terms of this CONSENT AGREEMENT shall control;

Releases

16. DOCTOR WAGMAN shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment provider 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

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

VIOLATION OF PROBATIONARY TERMS

19. Any violation of Paragraph 8 or Paragraph 9 of this CONSENT AGREEMENT shall constitute grounds to revoke or permanently revoke DOCTOR WAGMAN's certificate. DOCTOR WAGMAN 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 WAGMAN's certificate based on other violations of this CONSENT AGREEMENT;
20. DOCTOR WAGMAN 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 WAGMAN 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;
21. DOCTOR WAGMAN 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 10 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
22. DOCTOR WAGMAN AGREES that if, without prior permission from the BOARD, he fails to participate in psychotherapy at least as frequently as required by Paragraph 13 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 psychotherapy session. Practice during this time period shall be considered unlicensed practice in violation of Section 4731.41 of the Revised Code.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the BOARD, DOCTOR WAGMAN 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 WAGMAN has violated any term, condition or limitation of this CONSENT AGREEMENT, DOCTOR WAGMAN 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

DOCTOR WAGMAN shall not request termination of this CONSENT AGREEMENT for a minimum of five (5) years. In addition, DOCTOR WAGMAN shall not request modification to the probationary terms, limitations and conditions contained herein for at least one (1) year. 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 WAGMAN 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.

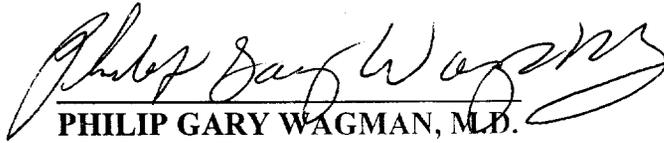
Any action initiated by the BOARD based on alleged violations of this CONSENT AGREEMENT shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

DOCTOR WAGMAN 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.

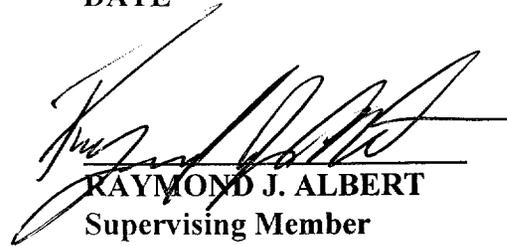
EFFECTIVE DATE

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.


PHILIP GARY WAGMAN, M.D.
ANAND G. GARG, M.D.
Secretary

4-10-2000
DATE

4/11/01
DATE


RAYMOND J. ALBERT
Supervising Member

4/11/01
DATE


ANNE B. STRAIT, ESQ.
Assistant Attorney General

4/11/01
DATE

STEP I
CONSENT AGREEMENT
BETWEEN
PHILIP GARY WAGMAN, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

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

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

BASIS FOR ACTION

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

- A. THE STATE MEDICAL BOARD OF OHIO is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, permanently revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for a violation of Section 4731.22(B)(3), Ohio Revised Code, "selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug," to wit: Sections 2925.11 and 2925.14, Ohio Revised Code; Section 4731.22(B)(10), Ohio Revised Code, "commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," to wit: Section 2925.11(C)(1)(a), Ohio Revised Code, "Drug Abuse;" Section 4731.22(B)(11), Ohio Revised Code, "a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction for, a misdemeanor committed in the course of practice," to wit: Section 2925.11(C)(2)(a), Ohio Revised Code, "Drug Abuse;" Section 4731.22(B)(19), Ohio Revised Code, "inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that

adversely affects cognitive, motor, or perceptive skills;" and Section 4731.22(B)(26), Ohio Revised Code, "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 Section 4731.22(B)(3), (10), (11), (19), and (26), Ohio Revised Code, as set forth in Paragraph E 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. PHILIP GARY WAGMAN, M.D., is licensed to practice medicine and surgery in the State of Ohio.
- D. PHILIP GARY WAGMAN, M.D., STATES that he is also licensed to practice medicine and surgery in the State of Pennsylvania. DOCTOR WAGMAN further STATES has an inactive license in the States of Michigan, Nebraska, and Nevada.
- E. PHILIP GARY WAGMAN, M.D., ADMITS that he has been abusing alcohol and illegal drugs, and that he has been in a state of depression over the past year.

PHILIP GARY WAGMAN, M.D., further ADMITS that on or about January 24, 2000, he smoked an unknown amount of crack cocaine, drank an unknown amount of alcohol, and ingested unknown amounts of Diazepam (a schedule IV controlled substance which DOCTOR WAGMAN prescribed to a patient of his) and Oxycontin (a schedule II controlled substance). DOCTOR WAGMAN further ADMITS that he did this in an attempt to commit suicide due to depression. DOCTOR WAGMAN further ADMITS that on or about January 25, 2000, he was found unconscious in a locked hotel room, and transported to an emergency room. DOCTOR WAGMAN further ADMITS that he coded while he was in the emergency room, that he was subsequently transferred to the intensive care unit, and that he was transferred to the psychiatric unit for two (2) days prior to his release from the hospital.

PHILIP GARY WAGMAN, M.D., further ADMITS that on or about February 15, 2000, he appeared in City of Girard Municipal Court, Girard, Ohio, and was charged with one count of "Drug Abuse," Section 2925.11, Ohio Revised Code, a third degree misdemeanor, and one count of "Drug Paraphernalia Offenses," Section 2925.14, Ohio Revised Code, a fourth

degree misdemeanor. On or about March 27, 2000, DOCTOR WAGMAN pled guilty to both counts, and the Court is holding the guilty plea under advisement pending DOCTOR WAGMAN's one year probation.

PHILIP GARY WAGMAN, M.D., STATES that he has not practiced medicine since on or about January 24, 2000. DOCTOR WAGMAN further STATES that he relinquished his D.E.A. registration to D.E.A. officials on or about February 1, 2000.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, PHILIP GARY WAGMAN, 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 WAGMAN to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than six (6) months;

Sobriety

2. DOCTOR WAGMAN 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 WAGMAN's history of chemical dependency;
3. DOCTOR WAGMAN shall abstain completely from the use of alcohol;

Releases; Quarterly Declarations and Appearances

4. DOCTOR WAGMAN 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 WAGMAN's chemical dependency, psychiatric diagnosis, and related conditions, or for purposes of complying with the 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 WAGMAN further agrees to provide the BOARD written consent permitting any treatment

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

5. DOCTOR WAGMAN 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;
6. DOCTOR WAGMAN 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 WAGMAN written notification of scheduled appearances, it is DOCTOR WAGMAN'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 WAGMAN shall immediately submit to the BOARD a written request to be notified of his next scheduled appearance;

Drug & Alcohol Screens; Supervising Physician

7. DOCTOR WAGMAN shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the BOARD. DOCTOR WAGMAN 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 WAGMAN shall submit to the BOARD for its prior approval the name of a supervising physician to whom DOCTOR WAGMAN shall submit the required urine specimens. In approving an individual to serve in this capacity, the BOARD will give preference to a physician who practices in the same locale as DOCTOR WAGMAN. 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 WAGMAN shall ensure that the supervising physician provides quarterly reports to the BOARD, on forms approved or provided by the BOARD, verifying whether all urine screens have been conducted in compliance with this CONSENT AGREEMENT, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his responsibilities;

In the event that the designated supervising physician becomes unable or unwilling to so serve, DOCTOR WAGMAN must immediately notify the BOARD in writing, and make arrangements acceptable to the BOARD for another supervising physician as soon as practicable. DOCTOR WAGMAN 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 WAGMAN's quarterly declaration. It is DOCTOR WAGMAN's responsibility to ensure that reports are timely submitted;

CONDITIONS FOR REINSTATEMENT

8. The BOARD shall not consider reinstatement of DOCTOR WAGMAN's certificate to practice medicine and surgery unless and until all of the following conditions are met:
 - a. DOCTOR WAGMAN shall submit an application for reinstatement, accompanied by appropriate fees, if any;
 - b. DOCTOR WAGMAN 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 WAGMAN has successfully completed any required inpatient treatment;
- ii. Evidence of continuing full compliance with an aftercare contract or consent agreement;
- iii. Two written reports submitted by a treatment provider approved under Section 4731.25 of the Revised Code indicating that DOCTOR WAGMAN's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the BOARD for making such assessments and shall describe the basis for this determination. Prior to the assessment, DOCTOR WAGMAN shall provide the evaluator with a copy of this CONSENT AGREEMENT and with copies of patient records from any chemical dependency assessment and/or treatment.
- iv. One written report indicating that DOCTOR WAGMAN has been psychiatrically evaluated and that DOCTOR WAGMAN's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. The evaluation shall be conducted by a psychiatrist approved in advance by the BOARD, and shall include a neuro-psychological evaluation. Prior to the assessment, DOCTOR WAGMAN shall provide the evaluator with copies of patient records from any psychiatric treatment that he has received and a copy of the CONSENT AGREEMENT. The report shall describe the basis for the evaluator's determinations and shall include a detailed recommended plan of any care, counseling, and treatment that may be required for DOCTOR WAGMAN's psychiatric disorder. The reports shall also include any recommended conditions, restrictions, or limitations that should be imposed on DOCTOR WAGMAN's practice.

- c. DOCTOR WAGMAN shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the BOARD or, if the BOARD and DOCTOR WAGMAN are unable to agree on the terms of a written CONSENT AGREEMENT, then DOCTOR WAGMAN 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 WAGMAN'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 WAGMAN has maintained sobriety.

9. In the event that DOCTOR WAGMAN 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 WAGMAN's fitness to resume practice.

REQUIRED REPORTING BY LICENSEE

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

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 WAGMAN appears to have violated or breached any term or condition of this CONSENT AGREEMENT, the BOARD reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this CONSENT AGREEMENT.

ACKNOWLEDGMENTS/LIABILITY RELEASE

DOCTOR WAGMAN 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.

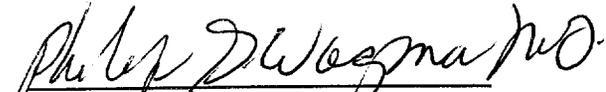
DOCTOR WAGMAN hereby releases THE STATE MEDICAL BOARD OF OHIO, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

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

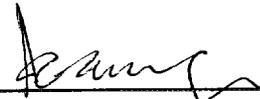
Further, this information may be reported to appropriate organizations, data banks and governmental bodies.

EFFECTIVE DATE

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



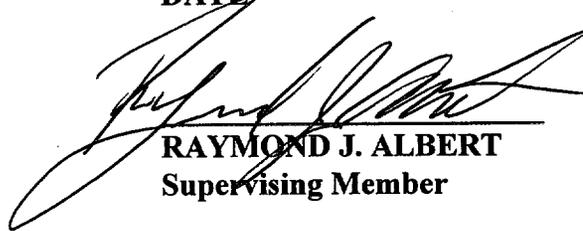
PHILIP GARY WAGMAN, M.D.



ANAND G. GARG, M.D.
Secretary

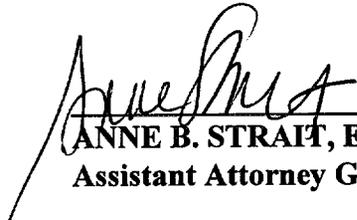
4-28-2000
DATE

5/10/00
DATE



RAYMOND J. ALBERT
Supervising Member

5/10/00
DATE



ANNE B. STRAIT, ESQ.
Assistant Attorney General

5/10/00
DATE