



# State Medical Board of Ohio

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Executive Director

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March 14, 2012

Mark Owen Henson, M.D.  
114 South Street  
Leesburg, OH 45135

RE: Case No. 11-CRF-085

Dear Doctor Henson:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Danielle R. Blue, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on March 14, 2012, 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 must be commenced by the filing of a Notice of Appeal with the State Medical Board and the Franklin County Court of Common Pleas. The Notice of Appeal must set forth the Order appealed from and state that the State Medical Board's Order is not supported by reliable, probative, and substantive evidence and is not in accordance with law. The Notice of Appeal may, but is not required to, set forth the specific grounds of the appeal. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO



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

JCS:jam  
Enclosures

CERTIFIED MAIL NO. 91 7199 9991 7030 3310 5178  
RETURN RECEIPT REQUESTED

*Mailed 3-15-12*

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Danielle R. Blue, State Medical Board Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on March 14, 2012, 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 Mark Owen Henson, M.D., Case No. 11-CRF-085, 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.



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

(SEAL)

March 14, 2012  
\_\_\_\_\_  
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

\*

\*

CASE NO. 11-CRF-085

MARK OWEN HENSON, M.D.

\*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on March 14, 2012.

Upon the Report and Recommendation of Danielle R. Blue, State Medical Board 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:

1. The certificate of Mark Owen Henson, M.D., to practice medicine and surgery in the State of Ohio is hereby REVOKED.
2. Upon becoming effective, this Order shall supersede the terms and conditions set forth in the July 15, 2010, Consent Agreement.

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

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

(SEAL)

March 14, 2012  
\_\_\_\_\_  
Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

**In the Matter of**

\*

**Case No. 11-CRF-085**

**Mark Owen Henson, M.D.,**

\*

**Hearing Examiner Blue**

**Respondent.**

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STATE MEDICAL BOARD OF OHIO

**REPORT AND RECOMMENDATION**

**Basis for Hearing:**

In a Notice of Summary Suspension and Opportunity for Hearing [Notice] dated August 10, 2011, the State Medical Board of Ohio [Board] notified Mark Owen Henson, M.D., that pursuant to Ohio Revised Code Section [R.C.] 4731.22(G), the Board had adopted an Entry of Order summarily suspending his certificate to practice medicine and surgery in the State of Ohio. In addition, the Board notified Dr. Henson that it had proposed to determine whether to take disciplinary action against his certificate to practice based upon his alleged violation of a July 2010 Consent Agreement.

The Board further alleged that Dr. Henson's acts, conduct, and/or omissions, individually and/or collectively, constitute:

- "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," as set forth in R.C. 4731.22(B)(26).
- "Violation of the conditions of limitation placed by the board upon a certificate to practice," as set forth in R.C. 4731.22(B)(15).
- "Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery \* \* \* or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as set forth in R.C. 4731.22(B)(5).

Accordingly, the Board advised Dr. Henson of his right to request a hearing in this matter, and the Board received Dr. Henson's request for a hearing on September 9, 2011 (State's Exhibits [St. Exs.] 1A, 1D)

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Appearances:

Mike DeWine, Attorney General, and Heidi W. Dorn, Assistant Attorney General, on behalf of the State of Ohio. Mark Owen Henson, M.D., on his own behalf.

Hearing Date: January 6, 2012

**PROCEDURAL MATTER**

Upon review of the hearing record, the Hearing Examiner noted that the parties did not submit a copy of Dr. Henson's request for a hearing in this matter. As such, the Hearing Examiner requested that the State submit a copy of Dr. Henson's request which was offered as State's Exhibit 1D. Dr. Henson had no objection to the exhibit and it was admitted into evidence as State's Exhibit 1D.

In addition, State's Exhibit 5 is a certified copy of the recording of an investigatory office conference with Dr. Henson. Upon review, the Hearing Examiner noted that the name of a participant in Alcoholics Anonymous [AA] was disclosed in the audio portion of the exhibit and therefore, the Hearing Examiner marked the audio portion separately as State's Exhibit 6 and placed it under seal to ensure confidentiality.

**SUMMARY OF THE EVIDENCE**

All evidence admitted in this matter, including the testimony, even if not specifically mentioned, was thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

**Background Information**

1. Mark Owen Henson, M.D., obtained his medical degree in 1997 from the University of Cincinnati College of Medicine. Dr. Henson was initially licensed to practice medicine and surgery in Ohio in 1999. Before the Board's summary suspension, Dr. Henson worked as a physician at Carroll Family Practice in Lancaster, Ohio. Currently, Dr. Henson holds an inactive license to practice in Ohio. Dr. Henson is currently employed as an instructor in anatomy and physiology and chemistry at Southern State Community College in Hillsboro, Ohio. (Ohio eLicense Center at <https://license.ohio.gov/lookup>, query on January 12, 2012; Hearing Transcript [Tr.] at 11)

**December 2006 Step I Consent Agreement**

2. On December 13, 2006, the Board approved a Step I Consent Agreement [2006 Step I Consent Agreement] between Dr. Henson and the Board. The 2006 Step I Consent Agreement, among other things, suspended his certificate to practice medicine and

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surgery in Ohio for an indefinite period of time, but not less than 90 days, based upon his violation of R.C. 4731.22(B)(26). The 2006 Step I Consent Agreement was based, in part, on Dr. Henson self-reporting to the Board that he relapsed on alcohol and admitting that he that he was impaired in his ability to practice medicine and surgery due to his habitual or excessive use or abuse of alcohol. The 2006 Step I Consent Agreement went into effect on December 13, 2006 and was superseded by a Step II Consent Agreement. (St. Ex. 2 at 1-9)

3. According to the 2006 Step I Consent Agreement, during the 1980s and before he was licensed to practice medicine in Ohio, Dr. Henson received treatment for chemical dependency related to alcohol and drugs and had maintained uninterrupted sobriety until his April 2006 relapse. (St. Ex. 2 at 3)

#### **June 2007 Step II Consent Agreement and July 2008 Relapse**

4. On June 13, 2007, the Board approved a Step II Consent Agreement [2007 Step II Consent Agreement] between Dr. Henson and the Board, in which his certificate to practice medicine and surgery was reinstated subject to certain probationary terms, conditions and limitations. The 2007 Step II Consent Agreement became effective on June 13, 2007. (St. Ex. 2 at 11-20)

5. The 2007 Step II Consent Agreement included the following provision in Paragraph 8:

Dr. Henson 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 Dr. Henson's history of chemical dependency.

(St. Ex. 2 at 14)

6. The 2007 Step II Consent Agreement also included a provision in Paragraph 10 requiring Dr. Henson to "submit to random urine screening for drug and alcohol on a weekly basis or as otherwise directed by the Board." (St. Ex. 2 at 14)
7. On July 10, 2008, Dr. Henson submitted a urine specimen for drug screening that tested positive for propoxyphene.<sup>1</sup> Dr. Henson initially denied using propoxyphene but later admitted that he had taken it. (St. Ex. 2 at 70; Tr. at 18-19)

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<sup>1</sup> Propoxyphene is an opioid pain reliever. A brand name is Darvon. [Pub Med Health](#) Feb. 1, 2011. National Center for Biotechnology Information, National Library of Medicine, accessed on Jan. 19, 2012. [www.ncbi.nlm.nih.gov/promedhealth](http://www.ncbi.nlm.nih.gov/promedhealth).

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### **August 2008 Summary Suspension and January 2009 Order**

8. In an Order dated August 13, 2008 [August 2008 Suspension Order], the Board summarily suspended Dr. Henson's certificate to practice medicine and surgery based upon his July 2008 positive drug screen. (St. Ex. 2 at 31-37; Tr. at 19)
9. On November 19, 2008, a hearing was held regarding Dr. Henson's August 2008 Suspension Order. In an Order dated January 14, 2009 [January 2009 Order], the Board revoked Dr. Henson's certificate to practice medicine and surgery; stayed the revocation; and suspended his certificate for an indefinite period of time, but not less than nine months. (St. Ex. 2 at 57-74)

### **July 2010 Consent Agreement**

10. On July 15, 2010, the Board approved a Consent Agreement [July 2010 Consent Agreement] between Dr. Henson and the Board, in which his certificate to practice medicine and surgery was reinstated subject to certain probationary terms, conditions, and limitations. The 2010 Consent Agreement went into effect on July 15, 2010, and is still in effect today. (St. Ex. 2 at 92-106; Tr. at 19, 37)

### **Quarterly Declarations**

11. The July 2010 Consent Agreement includes the following provision in Paragraph 2:

Dr. Henson 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 Consent Agreement. The first quarterly declaration must be received in the Board's offices on the date his quarterly declaration would have been due pursuant to the January 2009 Order, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

(St. Ex. 2 at 94; Tr. at 20)

12. Dr. Henson submitted quarterly declarations on October 31, 2010; January 31, 2011; April 29, 2011; and May 9, 2011 attesting that he was in compliance with the July 2010 Consent Agreement. (St. Ex. 4; Tr. at 38)
13. At the hearing, Dr. Henson admitted that he did not disclose in his quarterly declarations signed on January 31, 2011, April 29, 2011, May 9, 2011, and July 2, 2011, that he had relapsed on alcohol. (St. Ex. 4; Tr. at 21-22)

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Sobriety

14. The July 2010 Consent Agreement includes the following provision in Paragraph 9: “Dr. Henson shall abstain completely from the use of alcohol.” (St. Ex. 2 at 96)
15. Dr. Henson admitted that he relapsed on alcohol in December 2010 when he first started working at the Ohio Hospital for Psychiatry in Lima, Ohio. (St. Ex. 6; Tr. at 14, 25) Dr. Henson testified regarding what triggered his relapse in December 2010:

I believe, in retrospect, that I probably did take on too much responsibility early in my recovery but I wasn't working a good program. I was really, you know, lying to myself and others about just how well I was doing.

I was trying to juggle my addictions and my responsibilities, trying to financially get back on my feet, but I think taking on that responsibility there was the straw that broke the camel's back.

(Tr. at 14)

16. On January 20, 2011, Dr. Henson provided a urine sample for testing. The sample screened positive for Ethyl Alcohol [Alcohol], Ethyl Glucuronide [EtG], and Ethyl Sulfate [EtS] and was GC/MS confirmed for the presence of Alcohol, EtG, and EtS. Although Dr. Henson initially denied consuming alcohol and attributed the positive result to his use of hand sanitizer, he admitted at the hearing that “there's a high probability that that was a true test based on [my] alcohol consumption.” (St. Ex. 4; Tr. at 32, 38-39)
17. Ms. Danielle Bickers, the Board's Compliance Supervisor, testified that she has worked with Dr. Henson since 2006. She further testified that she is familiar with Dr. Henson's July 2010 Consent Agreement and has reviewed his compliance record. Ms. Bickers testified that, in July 2011, the Board received information that Dr. Henson had been drinking. She testified that, as a result, the Board sent a representative to Dr. Henson's home to obtain a urine specimen. She stated that Dr. Henson's urine sample came back negative. (Tr. at 34-37)
18. On August 8, 2011, at a Board investigative office conference, Dr. Henson initially denied that he had relapsed. However, later in the conference, Dr. Henson admitted that he had consumed alcohol in July 2011 and that he had relapsed on alcohol when he first started working at the Ohio Hospital for Psychiatry. Dr. Henson further admitted at the conference that he had consumed beer on a weekly basis since he relapsed. (Tr. at 12; St. Ex. 6)
19. Dr. Henson testified that he recalls telling a colleague at the Ohio Hospital for Psychiatry in July 2011 that he had relapsed. (Tr. at 24)

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Drug and Alcohol Screening

20. The July 2010 Consent Agreement also includes the following provision in Paragraph 10:

Dr. Henson shall submit to random urine screenings for drugs and alcohol at least two times per month, or as otherwise directed by the Board. \* \* \*

Dr. Henson shall abstain from the use of any substance and consumption of poppy seeds or any other food or liquid that may produce a low level positive result in a toxicology screen. \* \* \*

All such urine screens for drugs and alcohol shall be conducted through a Board-approved drug testing facility and collection site pursuant to the global contract between said facility and the Board, \* \* \* and the screening process shall require a daily call-in procedure. \* \* \*

(St. Ex. 2 at 96)

21. Ms. Bickers testified that Dr. Henson failed to call in to First Lab for testing on May 3, 2011 and July 11, 2011. She further testified that Dr. Henson called in late on July 5, 2011 and that, on February 19, 2011 and April 10, 2011, Dr. Henson called in to First Lab but failed to provide a urine sample for testing as required. (Tr. at 39-42)
22. Dr. Henson testified that he did not recall the exact dates that he failed to call in but admits that he failed to call in. Further, Dr. Henson does not recall whether he failed to provide a urine sample for testing on February 19, 2011 and April 10, 2011. (Tr. at 23)

Failure to Comply Section

23. The July 2010 Consent Agreement includes the following provision:

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Henson 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 Dr. Henson has violated any term, condition, or limitation of this Consent Agreement, Dr. Henson agrees that the violation, as alleged, also constitutes clear and convincing evidence that his continued practice presents a danger of immediate and

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serious harm to the public for purposes of initiating a summary suspension pursuant to Section 4731.22(G), Ohio Revised Code.

(St. Ex. 2 at 105)

**Additional Testimony from Dr. Henson**

24. Dr. Henson admits that he violated his July 2010 Consent Agreement. He further admits that he has not been compliant with his July 2010 Consent Agreement since August 2011. (Tr. at 26-27, 44)
25. Dr. Henson denies that he ever practiced medicine under the influence of alcohol. (Tr. at 55)
26. Dr. Henson testified that he has not undergone inpatient treatment since he relapsed on alcohol in December 2010. Dr. Henson also testified that, since the 1980s, he has undergone three rounds of inpatient treatment. (Tr. at 27, 64)
27. Dr. Henson testified that he last consumed alcohol three weeks before the hearing date. However, he stated that he is currently attending AA meetings and talks to his sponsor on a daily basis. He also stated that he is treating with a psychiatrist twice a week and sees a counselor intermittently. Dr. Henson testified that he is currently taking an anti-depressant, Lexapro, and Concerta. (Tr. at 26-27)
28. When asked whether he is currently in recovery, Dr. Henson replied as follows:

Yeah, I do. I mean - - but, truthfully, every time that I get back in to recovery I felt like [I] turned a corner, though, so, I mean, it's - - it's very difficult for me to figure this out.

My AA buddies tell me that that is part of the problem, that I don't need to figure it out, I just need to follow directions and suggestions.

But I think it's my nature, and maybe physicians and scientists in general, that I want some sort of explanation and I, you know, try to figure things out.

There's a pattern of remorse, getting excited and back in recovery and then various lengths of sobriety, and then something that changes in the psyche where I kind of - - even though I'm going through the motions, I - - mentally things aren't going well and I would relapse and then repeat that cycle over and over and over.

(Tr. at 28-29)

29. Dr. Henson testified that he is unsure whether he wants to practice medicine again. He explained as follows:

I believe that even though I've been serious about recovery I've never quite got it, and I think my mental state during that time - - even though I feel that I was an excellent physician, I think there was just issues that I need to deal with emotionally and issues, you know, even from childhood.

That's why I'm in counseling, to try to, I guess, figure things out and learn how to cope with those things without needing to turn to mind altering substances to deal with life, and I have not been successful with that yet to any great degree so I don't know that if I had a lengthy period of sobriety, a lengthy period of time in recovery, and continued the counseling and continued with the 12-step program that I couldn't become much more stable emotionally and be able to handle life on life's terms rather than need these things.

(Tr. at 30-31)

30. Dr. Henson testified that he has an "excellent" support network which includes his family and AA friends. (Tr. at 67)
31. Dr. Henson testified that, at this point in time, he wants to focus on recovery and his own mental and emotional health. (Tr. at 59)

#### **FINDINGS OF FACT**

1. On December 13, 2006, the Board approved a Step I Consent Agreement between Dr. Henson and the Board. The 2006 Step I Consent Agreement, among other things, suspended his certificate to practice medicine and surgery in Ohio for an indefinite period of time, but not less than 90 days, based upon his violation of R.C. 4731.22(B)(26). The 2006 Step I Consent Agreement was based, in part, on Dr. Henson self-reporting to the Board that he had relapsed on alcohol and admitting that he that he was impaired in his ability to practice medicine and surgery due to his habitual or excessive use or abuse of alcohol. The 2006 Step I Consent Agreement went into effect on December 13, 2006.
2. On June 13, 2007, the Board approved a Step II Consent Agreement between Dr. Henson and the Board, in which his certificate to practice medicine and surgery was reinstated subject to certain probationary terms, conditions and limitations. The Step II Consent Agreement required that Dr. Henson abstain 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 Dr. Henson's history of chemical

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- dependency. The Step II Consent Agreement also required Dr. Henson to submit to random urine screens for drugs and alcohol on a weekly basis or as otherwise directed by the Board. The 2007 Step II Consent Agreement became effective on June 13, 2007.
3. On July 10, 2008, Dr. Henson submitted a urine specimen for drug screening that tested positive for propoxyphene. Dr. Henson initially denied using propoxyphene but later admitted that he had taken it.
  4. In an Order dated August 13, 2008, the Board summarily suspended Dr. Henson's certificate to practice based upon his July 2008 positive test result.
  5. On November 19, 2008, a hearing was held regarding Dr. Henson's August 2008 Suspension Order. In an Order dated January 14, 2009, the Board revoked Dr. Henson's certificate to practice medicine and surgery; stayed the revocation; and suspended his certificate for an indefinite period of time, but not less than nine months.
  6. On July 15, 2010, the Board approved a Consent Agreement [July 2010 Consent Agreement] between Dr. Henson and the Board, in which his certificate to practice medicine and surgery was reinstated subject to certain probationary terms, conditions, and limitations. The 2010 Consent Agreement went into effect on July 15, 2010 and is still in effect.
  7. Dr. Henson failed to comply with Paragraph 2 of the July 2010 Consent Agreement on January 31, 2011; April 29, 2011; May 9, 2011; and July 2, 2011. Paragraph 2 of the July 2010 Consent Agreement requires that Dr. Henson submit quarterly declarations stating whether there has been compliance with all the conditions of the Consent Agreement. Dr. Henson admits that he relapsed on alcohol in December 2010 and failed to advise the Board in the above-referenced quarterly declarations that he had relapsed on alcohol.
  8. Dr. Henson failed to comply with Paragraph 9 of the July 2010 Consent Agreement beginning in December 2010. Paragraph 9 of the July 2010 Consent Agreement requires that Dr. Henson completely abstain from the use of alcohol. Dr. Henson admits that he relapsed on alcohol in December 2010 and subsequently consumed alcohol on a weekly basis between December 2010 and December 2011.
  9. Dr. Henson failed to comply with Paragraph 10 of the July 2010 Consent Agreement on February 19, 2011; April 10, 2011; May 3, 2011; July 5, 2011; and July 11, 2011. Paragraph 10 of the July 2010 Consent Agreement requires Dr. Henson to make daily call-ins and/or timely call in to a Board-approved facility to determine whether he had to provide a random urine specimen. Dr. Henson admits that he failed to call in to First Lab but does not recall the exact dates that he failed to call in. Dr. Henson also admits that he had called in late before. Further, Dr. Henson did not recall whether he failed to submit a random urine specimen on two occasions.

10. On January 20, 2011, Dr. Henson provided a urine sample for testing. The sample screened positive for Ethyl Alcohol [Alcohol], Ethyl Glucuronide [EtG], and Ethyl Sulfate [EtS] and was GC/MS confirmed for the presence of Alcohol, EtG, and EtS. Although Dr. Henson initially denied consuming alcohol and attributed the positive result to his use of hand sanitizer, he admitted at the hearing that “there’s a high probability that that was a true test based on [my] alcohol consumption.”
11. In July 2011, the Board received information that Dr. Henson had been drinking again. Dr. Henson admitted that he told a colleague that he had relapsed. The Board sent a representative to Dr. Henson’s home to obtain a urine specimen and the urine sample came back negative.  
  
There was no evidence presented that Dr. Henson denied consuming alcohol to the Board representative or that he delayed producing a sample for over three hours to the Board representative.
12. On August 8, 2011, at a Board investigative office conference, Dr. Henson initially denied that he had relapsed. However, later in the conference, Dr. Henson admitted that he had relapsed.
13. By signing the July 2010 Consent Agreement, Dr. Henson contractually agreed that, if the Secretary and Supervising Member of the Board determine that there is clear and convincing evidence that he has violated any term, condition, or limitation of the agreement, such 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 R.C. 4731.22(G).

### CONCLUSIONS OF LAW

1. The acts, conduct, and/or omissions of Dr. Henson as set forth in Findings of Fact 1 through 13, individually and/or collectively, demonstrate an “[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice,” as set forth in R.C. 4731.22(B)(26).
2. The acts, conduct, and/or omissions of Dr. Henson as set forth in Findings of Fact 6 through 13, individually and/or collectively, constitute a “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice,” as set forth in R.C. 4731.22(B)(15).
3. The acts, conduct, and/or omissions of Dr. Henson as set forth in Findings of Fact 7, 10, and 12, individually and/or collectively, constitute “[m]aking a false, fraudulent,

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deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery \* \* \* or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as set forth in R.C. 4731.22(B)(5).

### DISCUSSION OF PROPOSED ORDER

It is undisputed that Dr. Henson has failed to comply with several terms and conditions of the July 2010 Consent Agreement since at least December 2010. Until August 2011, Dr. Henson continued to deny to the Board that he had relapsed on alcohol despite evidence to the contrary. As Dr. Henson acknowledged at the hearing, during this time period, he was lying to himself and others about how well he was doing.

The Hearing Examiner is convinced that another set of probationary terms and conditions are not warranted in this matter. First, the evidence clearly demonstrates that the Board has made previous attempts to assist Dr. Henson in his efforts to recover. From 2006 to the present, Dr. Henson has entered into three different consent agreements, been summarily suspended for a relapse that resulted in a board order, and has essentially been under this Board's monitoring for over six years. In addition, since the 1980s, Dr. Henson has had three rounds of inpatient treatment. Second, Dr. Henson is currently struggling with his recovery but desirous of becoming healthy again. Finally, Dr. Henson testified that, at this time, he is not interested in returning to the practice of medicine but would like to keep the door open for the future.

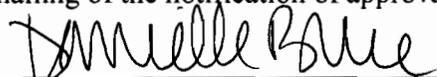
Based on the foregoing, the Hearing Examiner believes that a revocation is an appropriate sanction in this matter because Dr. Henson needs time to focus on his recovery and determine whether he truly wants to pursue medicine again.

### PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of Mark Owen Henson, M.D., to practice medicine and surgery in the State of Ohio is hereby REVOKED.
2. Upon becoming effective, this Order shall supersede the terms and conditions set forth in the July 15, 2010 Consent Agreement.

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



Danielle R. Blue, Esq.  
Hearing Examiner



# State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.  
Executive Director

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## EXCERPT FROM THE DRAFT MINUTES OF MARCH 14, 2012

### REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Mahajan announced that the Board would now consider the Reports and Recommendations, and the Proposed Findings and Proposed Order appearing on its agenda.

Dr. Mahajan asked whether each member of the Board had received, read and considered the hearing records; the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: Laila Ibrahim Gomaa, M.D.; Mark Owen Henson, M.D.; and Amy R. Weidman, M.D. A roll call was taken:

ROLL CALL:	Dr. Stafford	- aye
	Dr. Amato	- aye
	Dr. Suppan	- aye
	Dr. Steinbergh	- aye
	Dr. Mahajan	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- aye
	Ms. Elsass	- aye
	Mr. Kenney	- aye
	Dr. Ramprasad	- aye

Dr. Mahajan 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:	Dr. Stafford	- aye
	Dr. Amato	- aye
	Dr. Suppan	- aye
	Dr. Steinbergh	- aye
	Dr. Mahajan	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- aye
	Ms. Elsass	- aye
	Mr. Kenney	- aye
	Dr. Ramprasad	- aye

Dr. Mahajan noted that, in accordance with the provision in section 4731.22(F)(2), Ohio 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. In the matters before the Board today, Dr. Stafford and

Dr. Talmage served as Secretary, and Dr. Amato served as Supervising Member.

Dr. Mahajan reminded all parties that no oral motions may be made during these proceedings.

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

.....  
MARK OWEN HENSON, M.D., Case No. 11-CRF-085  
.....

**Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Mark Owen Henson, M.D. Dr. Ramprasad seconded the motion.**

.....  
A vote was taken on Dr. Steinbergh's motion to approve:

ROLL CALL:	Dr. Strafford	- abstain
	Dr. Amato	- abstain
	Dr. Suppan	- aye
	Dr. Steinbergh	- aye
	Dr. Mahajan	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- abstain
	Ms. Elsass	- aye
	Mr. Kenney	- aye
	Dr. Ramprasad	- aye

The motion to approve carried.

# State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.  
Executive Director

(614) 466-3934  
med.ohio.gov

August 10, 2011

Case number: 11-CRF- 085

Mark Owen Henson, M.D.  
114 South Street  
P.O. Box 401  
Leesburg, Ohio 45135

Dear Doctor Henson:

Enclosed please find certified copies of the Entry of Order, the Notice of Summary Suspension and Opportunity for Hearing, and an excerpt of the Minutes of the State Medical Board, meeting in regular session on August 10, 2011, including a Motion adopting the Order of Summary Suspension and issuing the Notice of Summary Suspension and Opportunity for Hearing.

You are advised that continued practice after receipt of this Order shall be considered practicing without a certificate, in violation of Section 4731.41, Ohio Revised Code.

Pursuant to Chapter 119, Ohio Revised Code, you are hereby advised that you are entitled to a hearing on the matters set forth in the Notice of Summary Suspension and Opportunity for Hearing. If you wish to request such hearing, that request must be made in writing and be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice. Further information concerning such hearing is contained within the Notice of Summary Suspension and Opportunity for Hearing.

THE STATE MEDICAL BOARD OF OHIO

  
Lance A. Talmage, M.D., Secretary

LAT/CDP/flb  
Enclosures

*Mailed 8-11-11*

**CERTIFICATION**

I hereby certify that the attached copies of the Entry of Order of the State Medical Board of Ohio and the Motion by the State Medical Board, meeting in regular session on August 10, 2011, to Adopt the Order of Summary Suspension and to Issue the Notice of Summary Suspension and Opportunity for Hearing, constitute true and complete copies of the Motion and Order in the Matter of Mark Owen Henson, M.D., Case number: 11-CRF- 085 as they appear in the Journal of the State Medical Board of Ohio.

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

  
Lance A. Talmage, M.D., Secretary

(SEAL)

August 10, 2011  
Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF :  
 :  
MARK OWEN HENSON, M.D. :  
 :  
CASE NUMBER: 11-CRF- 085 :

**ENTRY OF ORDER**

This matter came on for consideration before the State Medical Board of Ohio the 10th day of August, 2011.

Pursuant to Section 4731.22(G), Ohio Revised Code, and pursuant to the contractual terms of the Consent Agreement Between Mark Owen Henson, M.D., and the State Medical Board of Ohio, effective July 15, 2010, and upon recommendation of Lance A. Talmage, M.D., Secretary, and Jack C. Amato, M.D., Supervising Member; and

Pursuant to their determination, based upon their review of the information supporting the allegations as set forth in the Notice of Summary Suspension and Opportunity for Hearing, that there is clear and convincing evidence that Mark Owen Henson, M.D., has violated Sections 4731.22(B)(5), 4731.22(B)(15), and 4731.22 (B)(26), Ohio Revised Code, as alleged in the Notice of Summary Suspension and Opportunity for Hearing that is enclosed herewith and fully incorporated herein; and,

Pursuant to their further determination, based upon their review of the information supporting the allegations as set forth in the Notice of Summary Suspension and Opportunity for Hearing, that Dr. Henson's continued practice presents a danger of immediate and serious harm to the public;

The following Order is hereby entered on the Journal of the State Medical Board of Ohio for the 10th day of August, 2011:

It is hereby ORDERED that the certificate of Mark Owen Henson, M.D., to practice medicine and surgery in the State of Ohio be summarily suspended.

It is hereby ORDERED that Mark Owen Henson, M.D., shall immediately cease the practice of medicine and surgery in Ohio and immediately refer all active patients to other appropriate physicians.

This Order shall become effective immediately.

(SEAL)

  
Lance A. Talmage, M.D., Secretary

August 10, 2011  
Date

# State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.  
Executive Director

(614) 466-3934  
med.ohio.gov

## EXCERPT FROM THE DRAFT MINUTES OF AUGUST 10, 2011

### CITATIONS, PROPOSED DENIALS, ORDERS OF SUMMARY SUSPENSION & NOTICES OF IMMEDIATE SUSPENSION

#### MARK OWEN HENSON, M.D. – NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

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Dr. Talmage exited the meeting prior to this discussion.  
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At this time the Board read and considered the proposed Notice of Summary Suspension and Opportunity for Hearing in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

**Dr. Madia moved to enter an Order of Summary Suspension in the matter of Mark Owen Henson, M.D. in accordance with Section 4731.22(G), Ohio Revised Code, and to issue the Notice of Summary Suspension and Opportunity for Hearing. Mr. Hairston seconded the motion. A vote was taken:**

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Amato	- abstain
	Dr. Suppan	- aye
	Dr. Madia	- aye
	Ms. Elsass	- aye
	Dr. Ramprasad	- aye

The motion carried.

# State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.  
Executive Director

(614) 466-3934  
med.ohio.gov

## NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

August 10, 2011

Case number: 11-CRF- 085

Mark Owen Henson, M.D.  
114 South Street  
P.O. Box 401  
Leesburg, Ohio 45135

Dear Doctor Henson:

The Secretary and the Supervising Member of the State Medical Board of Ohio [Board] have determined that there is clear and convincing evidence that you have violated Sections 4731.22(B)(5), 4731.22(B)(15), and 4731.22(B)(26), Ohio Revised Code, and have further determined that your continued practice presents a danger of immediate and serious harm to the public, as set forth in paragraphs (1) through (11), below.

Therefore, pursuant to Section 4731.22(G), Ohio Revised Code, and pursuant to the Consent Agreement Between Mark Owen Henson, M.D., and the State Medical Board of Ohio, effective July 15, 2010, a copy of which is attached hereto and incorporated herein, and upon recommendation of Lance A. Talmage, M.D., Secretary, and Jack C. Amato, M.D., Supervising Member, you are hereby notified that, as set forth in the attached Entry of Order, your certificate to practice medicine and surgery in the State of Ohio is summarily suspended. Accordingly, at this time, you are no longer authorized to practice medicine and surgery in Ohio.

Furthermore, in accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the 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) In or around December 2006, you entered into a Step I Consent Agreement with the Board [December 2006 Step I Consent Agreement] in lieu of formal proceedings based upon your violation of Section 4731.22(B)(26), Ohio Revised Code. In the December 2006 Step I Consent Agreement, you admitted that you had relapsed on

alcohol and that you were currently impaired in your ability to practice medicine and surgery due to the excessive use or abuse of alcohol. Further, in the December 2006 Step I Consent Agreement, you agreed to certain 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 90 days, with specified conditions for reinstatement.

- (2) On or about June 13, 2007, you entered into a Step II Consent Agreement with the Board [June 2007 Step II Consent Agreement], which provided for reinstatement of your certificate to practice medicine and surgery in the State of Ohio, subject to certain terms, conditions and limitations. The June 2007 Step II Consent Agreement included provisions requiring you to abstain from the personal use or possession of drugs, except those prescribed, dispensed or administered to you by another so authorized by law who has full knowledge of your history of chemical dependency. The June 2007 Step II Consent Agreement also required you to submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board.
- (3) Despite the aforementioned provisions set forth in the June 2007 Step II Consent Agreement, the urine specimen you submitted on or about July 10, 2008, for drug screening tested positive for propoxyphene. When informed of the test result, you denied using propoxyphene. When questioned by a Board representative on or about July 31, 2008, you again denied that you had taken propoxyphene, although you later admitted that you had taken propoxyphene.
- (4) In an Order dated August 13, 2008 [August 2008 Suspension Order], the Board summarily suspended your certificate to practice medicine and surgery.
- (5) Following a hearing, in an Order dated January 14, 2009 [January 2009 Order], the Board revoked your certificate to practice medicine and surgery; stayed the revocation; and suspended your certificate for an indefinite period of time, but not less than nine months.
- (6) On or about July 15, 2010, you entered into a Consent Agreement with the Board [July 2010 Consent Agreement], which provided for reinstatement of your certificate to practice medicine and surgery in the State of Ohio, subject to certain terms, conditions and limitations. Paragraphs 2 and 9 of the July 2010 Consent Agreement, respectively, included the following provisions:

Dr. Henson 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 Consent Agreement.

Dr. Henson shall abstain completely from the use of alcohol.

Paragraph 10 of the July 2010 Consent Agreement provides for testing to ensure compliance with the foregoing provision and includes the following provisions:

Dr. Henson shall submit to random urine screenings for drugs and alcohol at least two times per month, or as otherwise directed by the Board.

Dr. Henson shall abstain from the use of any substance and the consumption of poppy seeds or any other food or liquid that may produce a low level positive result in a toxicology screen.

All such urine screenings for drugs and alcohol shall be conducted through a Board-approved drug testing facility and collection site pursuant to the global contract between said facility and the Board, . . . and the screening process shall require a daily call-in procedure.

- (7) On or about October 31, 2010; February 1, 2011; and May 10, 2011, you submitted declarations to the Board, attesting to your compliance with the July 2010 Consent Agreement. You failed to advise the Board in any of these declarations that you had relapsed and/or had consumed alcohol.
- (8) On or about January 20, 2011, pursuant to Paragraph 10 of the July 2010 Consent Agreement, you provided a urine sample for testing. The sample screened positive for Ethyl Alcohol [Alcohol], Ethyl Glucuronide [EtG] and Ethyl Sulfate [EtS] and was GC/MS confirmed for the presence of Alcohol, EtG and EtS. When confronted by a Board representative about the test result, you denied consuming alcohol and attributed the test result to use of an alcohol based hand sanitizer you claimed you regularly used at work.
- (9) On two occasions, specifically May 3, 2011, and July 11, 2011, you failed to call in to the laboratory for testing, as required by Paragraph 10 of your July 2011 Consent Agreement. On or about July 5, 2011, you called in late. On or about February 19, 2011, and April 10, 2011, you did call in to the laboratory but failed to provide a urine sample for testing as required.
- (10) In or around July 2011, the Board received information that you had admitted to a colleague that you had been drinking and should not be working. When questioned by a Board representative on or about July 25, 2011, you denied consuming alcohol. When asked to provide a urine sample on that same date, you delayed in producing a sample for over three hours.

- (11) On or about August 8, 2011, in a meeting with Board representatives, you initially denied consuming alcohol. Upon further questioning, you admitted that you had consumed alcohol in or around July 2011 and had relapsed on alcohol as early as fall 2010. You admitted that you had consumed alcohol, specifically beer, approximately weekly since relapsing in or around fall 2010.

Section 4731.22(B)(26), Ohio Revised Code, provides that if the Board determines that an individual's ability to practice is impaired, the Board shall suspend the individual's certificate and shall require the individual, as a condition for continued, reinstated, or renewed certification to practice, to submit to treatment and, before being eligible to apply for reinstatement, to demonstrate to the Board the ability to resume practice in compliance with acceptable and prevailing standards of care, including completing required treatment, providing evidence of compliance with an aftercare contract or written consent agreement, and providing written reports indicating that the individual's ability to practice has been assessed by individuals or providers approved by the Board and that the individual has been found capable of practicing according to acceptable and prevailing standards of care.

Further, Rule 4731-16-02(B)(2), Ohio Administrative Code, additionally provides that if an individual has relapsed during or following treatment, it shall constitute independent proof of impairment and shall support license suspension or denial without the need for an examination.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) through (11) above, individually and/or collectively, constitute "[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (6) through (11) above, individually and/or collectively, constitute a "[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.

Additionally, your acts, conduct, and/or omissions as alleged in paragraphs (7), (8), (10) and (11) above, individually and/or collectively, constitute "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, and Chapter 4731., Ohio Revised Code, you are hereby advised that you are entitled to a hearing concerning these matters. If you wish

Notice of Summary Suspension  
& Opportunity for Hearing  
Mark Owen Henson, M.D.  
Page 5

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/CDP/flb  
Enclosures

CERTIFIED MAIL #91 7199 9991 7030 3377 5999  
RETURN RECEIPT REQUESTED

cc: Mark Owen Henson, M.D.  
114 South Street  
Leesburg, Ohio 45135

VIA HAND DELIVERY

**CONSENT AGREEMENT  
BETWEEN  
MARK OWEN HENSON, M.D.  
AND  
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Henson enters into this Consent Agreement being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

**BASIS FOR ACTION**

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for a violation of Section 4731.22(B)(15), Ohio Revised Code, for “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice; Section 4731.22(B)(19), Ohio Revised Code, for “[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills;” and/or Section 4731.22(B)(26), Ohio Revised Code, for “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 Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Sections 4731.22(B)(15) and 4731.22(B)(26), Ohio Revised Code, as set forth in the Entry of Order issued by the Board on January 14, 2009, [January 2009 Order], effective upon mailing on or about February 13, 2009, and as set forth herein, as well as the violation of Section 4731.22(B)(19), as set forth in Paragraph E, below. The Board expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement.
- C. Dr. Henson is seeking reinstatement of his certificate to practice medicine and surgery, license number 35.076766, which was revoked, with said revocation stayed,

STATE MEDICAL BOARD

and was indefinitely suspended, but not less than nine months, pursuant to the aforementioned January 2009 Order.

- D. Dr. Henson states that he is not licensed to practice in any other state or jurisdiction.
- E. Dr. Henson admits that, following his relapse on propoxyphene during or about July 2008 and his admission of relapse to the Board on or about August 5, 2008, the Board summarily suspended his license to practice medicine and surgery in an Entry of Order dated August 13, 2008 [August 2008 Summary Suspension Order]. At the time of his relapse, Dr. Henson admits that he was subject a Step II Consent Agreement approved by the Board and effective on or about June 13, 2007 [June 2007 Step II Consent Agreement]. Dr. Henson admits that, under the terms of the June 2007 Step II Consent Agreement, he was subject to random urine screens. Dr. Henson also admits that, following his relapse on propoxyphene, he ceased complying with the terms of his June 2007 Step II Consent Agreement, which included failure to submit to random urine screens.

Dr. Henson also admits that, following issuance of the August 2008 Summary Suspension Order, he consumed alcohol on or about August 29, 2008, and that he did not immediately seek treatment. Further, Dr. Henson admits that, on or about August 30, 2008, he was charged criminally with Disorderly Intoxication, and that he was convicted of the charge on or about September 8, 2008.

Dr. Henson states, and the Board acknowledges receipt of information to support, that he entered residential treatment for chemical dependency at The Woods at Parkside [Parkside], a Board-approved treatment provider, on or about August 17, 2009, intending to complete 28 days of treatment. Dr. Henson further states that, on or about August 19, 2009, he left Parkside due to the unexpected death of his mother. Dr. Henson states, and the Board acknowledges receipt of information to support, that he returned to Parkside on or about August 22, 2009, to begin again 28 days of inpatient treatment. Dr. Henson states, and the Board acknowledges receipt of information to support, that he was discharged, treatment complete, on or about September 19, 2009. Dr. Henson states, and the Board acknowledges receipt of information to support, that following his discharge from Parkside, he entered into a monitoring agreement with the Ohio Physician Health Program.

Dr. Henson states, and the Board acknowledges receipt of information to support, that he is in compliance with the aftercare contract that he entered into with Parkside on or about September 18, 2009. Dr. Henson admits that such aftercare contract remains in effect to date.

Dr. Henson states, and the Board acknowledges receipt of information to support, that Harry P. Nguyen, M.D., Medical Director of Parkside, provided a written report indicating that Dr. Henson's ability to practice has been assessed and that he has been

found capable of practicing medicine according to acceptable and prevailing standards of care, so long as he follows all of his monitoring agreements and his continuing care contracts. In his letter, Dr. Nguyen notes that the consulting psychiatrist had diagnosed Dr. Henson with Bipolar Disorder. Dr. Henson states, and the Board acknowledges receipt of information to support, that David O. Goldberg, D.O., a physician certified in addiction medicine who has been approved by the Board to provide an assessment of Dr. Henson, provided a written report indicating that Dr. Henson's ability to practice has been assessed and that he has been found capable of practicing medicine according to acceptable and prevailing standards of care, so long as certain treatment and monitoring requirements are in place, including that he continue with medical management regarding his diagnosis of Bipolar Disorder.

Dr. Henson states, and the Board acknowledges receipt of information to support, that Dr. Henson has substantially fulfilled the conditions for reinstatement of his certificate to practice medicine and surgery in the State of Ohio, as established in the above-referenced January 2009 Order. Further, Dr. Henson states that he is entering into this Consent Agreement to address issues related to his diagnosis of Bipolar Disorder that became known to the Board subsequent to issuance of the January 2009 Order.

#### **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 Dr. Henson to practice medicine and surgery in the State of Ohio shall be REINSTATED; the terms, conditions, and limitations set forth in this Consent Agreement shall supersede the probationary terms, conditions, and limitations established in the January 2009 Order; and Dr. Henson knowingly and voluntarily agrees with the Board to the following PROBATIONARY terms, conditions and limitations:

1. Dr. Henson shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
2. Dr. Henson 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 Consent Agreement. The first quarterly declaration must be received in the Board's offices on the date his quarterly declaration would have been due pursuant to the January 2009 Order, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. Dr. Henson 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 the January 2009 Order. 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.

4. Dr. Henson shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed. Further, the Secretary and Supervising Member of the Board shall have the discretion to grant a waiver of part or all of the probationary terms set forth in this Consent Agreement for occasional periods of absence of fourteen days or less. In the event that Dr. Henson resides and/or is employed at a location that is within fifty miles of the geographic border of Ohio and any of its contiguous states, Dr. Henson may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Henson is able to otherwise maintain full compliance with all other terms, conditions and limitations set forth in this Consent Agreement.
5. In the event Dr. Henson 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 this Consent Agreement.

## **MONITORING OF REHABILITATION AND TREATMENT**

### **Drug Associated Restrictions**

6. Dr. Henson shall keep a log of all controlled substances prescribed. Such log shall be submitted, in the format approved by the Board, on the date upon which Dr. Henson's quarterly declaration is due, or as otherwise directed by the Board. Further, Dr. Henson shall make his patient records with regard to such prescribing available for review by an agent of the Board immediately upon request.
7. Dr. Henson 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 Dr. Henson to administer or personally furnish controlled substances, Dr. Henson 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 and shall be submitted to the Board no later than the date upon which Dr. Henson's quarterly declaration is due, or as otherwise directed by the Board. Further, Dr. Henson shall make his patient records with regard to such

prescribing, administering, or personally furnishing available for review by an agent of the Board immediately upon request.

### **Sobriety**

8. Dr. Henson shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Henson's history of chemical dependency. Further, in the event that Dr. Henson is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Henson shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. Henson received; the medical purpose for which he received said drug; the date such drug was initially received; and the dosage, amount, number of refills, and directions for use. Further, within thirty days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Henson shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.
9. Dr. Henson shall abstain completely from the use of alcohol.

### **Drug and Alcohol Screens/Drug Testing Facility and Collection Site**

10. Dr. Henson shall submit to random urine screenings for drugs and alcohol at least two times per month, or as otherwise directed by the Board. Dr. Henson 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, and shall include Dr. Henson's drug(s) of choice.

Dr. Henson shall abstain from the use of any substance and the consumption of poppy seeds or any other food or liquid that may produce a low level positive result in a toxicology screen. Dr. Henson acknowledges that he understands that the consumption or use of such substances, including but not limited to substances such as mouthwash or hand cleaning gel, may cause a positive drug screen that may not be able to be differentiated from intentional ingestion, and therefore such consumption or use is prohibited under this Consent Agreement.

All such urine screenings for drugs and alcohol shall be conducted through a Board-approved drug testing facility and collection site pursuant to the global contract between said facility and the Board, that provides for the Board to maintain ultimate control over the urine screening process and to preserve the confidentiality of all positive screening results in accordance with Section 4731.22(F)(5), Ohio Revised Code, and the screening process shall require a daily call-in procedure. Further, in the event that the Board exercises its discretion, as provided in Paragraph 11 below, to

approve urine screenings to be conducted at an alternative drug testing facility and/or collection site or a supervising physician, such approval shall be expressly contingent upon the Board retaining ultimate control over the urine screening process in a manner that preserves the aforementioned confidentiality of all positive screening results.

Dr. Henson shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by Dr. Henson shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Consent Agreement. Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Consent Agreement.

Further, within thirty days of the effective date of this Consent Agreement, Dr. Henson shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug testing facility and/or collection site in order to facilitate the urine screening process in the manner required by this Consent Agreement. Further, Dr. Henson shall promptly provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Henson and the Board-approved drug testing facility and/or collection site. Dr. Henson's failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Consent Agreement. However, Dr. Henson and the Board further agree that in the event Dr. Henson previously entered into the aforementioned financial and contractual agreements pursuant to the requirements of a prior consent agreement with the Board under which Dr. Henson is currently participating in an ongoing urine screening process, then this requirement shall be waived under the instant consent agreement.

Dr. Henson shall ensure that the urine screening process performed through the Board-approved drug testing facility and/or collection site requires a daily call-in procedure; 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, Dr. Henson and the Board-approved drug testing facility and collection site shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Dr. Henson shall ensure that the Board-approved drug testing facility and/or collection site provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.

In the event that the Board-approved drug testing facility and/or collection site becomes unable or unwilling to serve as required by this Consent Agreement, Dr. Henson must immediately notify the Board in writing, and make arrangements acceptable to the Board pursuant to Paragraph 11 below, as soon as practicable. Dr. Henson shall further ensure that the Board-approved drug testing facility and/or collection site also notifies the Board directly of its inability to continue to serve and the reasons therefore.

Dr. Henson acknowledges that the Board expressly reserves the right to withdraw its approval of any drug testing facility and/or collection site in the event that the Secretary and Supervising Member of the Board determine that the drug testing facility and/or collection site has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

11. Dr. Henson and the Board agree that it is the intent of this Consent Agreement that Dr. Henson shall submit his urine specimens to the Board-approved drug testing facility and collection site chosen by the Board. However, in the event that utilizing said Board-approved drug testing facility and/or collection site creates an extraordinary hardship upon Dr. Henson, as determined in the sole discretion of the Board, then subject to the following requirements, the Board may approve an alternate drug testing facility and/or collection site, or a supervising physician, to facilitate the urine screening process for Dr. Henson:
  - a. Within thirty days of the date upon which Dr. Henson is notified of the Board's determination that utilizing the Board-approved drug testing facility and/or collection site constitutes an extraordinary hardship upon Dr. Henson, he shall submit to the Board in writing for its prior approval the identity of either an alternate drug testing facility and collection site, or the name of a proposed supervising physician, to whom Dr. Henson shall submit the required urine specimens. In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Henson's residence or employment location, or to a physician who practices in the same locale as Dr. Henson. Dr. Henson shall ensure that the urine screening process performed through the alternate drug testing facility and/or collection site, or through the supervising physician, requires a daily call-in procedure; 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, Dr. Henson acknowledges that the alternate drug testing facility and collection site, or the supervising physician, shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.
  - b. Dr. Henson shall ensure that the alternate drug testing facility and/or collection site, or the supervising physician, provides quarterly reports to the Board, in a

format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.

- c. In the event that the designated alternate drug testing facility and/or collection site, or the supervising physician, becomes unable or unwilling to so serve, Dr. Henson must immediately notify the Board in writing. Dr. Henson shall further ensure that the previously designated alternate drug testing facility and collection site, or the supervising physician, also notifies the Board directly of the inability to continue to serve and the reasons therefore. Further, in order to ensure that there will be no interruption in his urine screening process, upon the previously approved alternate drug testing facility, collection site, or supervising physician becoming unable to serve, Dr. Henson shall immediately commence urine screening at the Board-approved drug testing facility and collection site chosen by the Board, until such time, if any, that the Board approves a subsequent alternate drug testing facility, collection site, or supervising physician, if requested by Dr. Henson.
  - d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Henson's designated alternate drug testing facility and/or collection site, or any person proposed to serve as his supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
  - e. In the event that the Board approved an alternate drug testing facility and/or collection site, or a supervising physician, pursuant to the January 2009 Order, Dr. Henson and the Board agree that the entity, facility or person previously approved by the Board to so serve pursuant to the January 2009 Order is hereby approved to continue as Dr. Henson's designated alternate drug testing facility and collection site or as his supervising physician under this Consent Agreement.
12. All screening reports required under this Consent Agreement from the Board-approved drug testing facility and/or collection site, or from the alternate drug testing facility and/or collection site or supervising physician, must be received in the Board's offices no later than the due date for Dr. Henson's quarterly declaration. It is Dr. Henson's responsibility to ensure that reports are timely submitted.
13. The Board retains the right to require, and Dr. Henson agrees to submit, blood, urine, breath, saliva and/or hair specimens for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Henson, or for any

other purpose, at Dr. Henson's expense upon the Board's request and without prior notice. Dr. Henson's refusal to submit a specimen upon request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.

### **Mental Health Treatment**

14. Before engaging in any medical practice, Dr. Henson 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. Henson shall undergo and continue psychiatric treatment, including individual psychotherapy, as frequently as recommended by his treating psychiatrist, but at least once every three months, or as otherwise directed by the Board. Dr. Henson shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered. Dr. Henson 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. Henson's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Henson's compliance with his treatment plan; Dr. Henson's mental status; Dr. Henson's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Henson 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 Dr. Henson is unable to practice due to his psychiatric disorder. It is Dr. Henson's responsibility to ensure that quarterly reports are received in the Board's offices no later than the due date for Dr. Henson's quarterly declaration.

The psychotherapy required as part of Dr. Henson's psychiatric treatment pursuant to this paragraph may be delegated by Dr. Henson's treating psychiatrist to an appropriately licensed mental health professional approved in advance by the Board, so long as Dr. Henson's treating psychiatrist oversees/supervises such psychotherapy; includes information concerning Dr. Henson's participation and progress in psychotherapy in his or her quarterly reports; and continues to meet personally with Dr. Henson at least once every three months or as otherwise directed by the Board. Should the psychotherapy required pursuant to this provision be delegated to a licensed mental health professional, Dr. Henson shall ensure that psychotherapy reports are forwarded by his treating licensed mental health professional to the Board on a quarterly basis, or as otherwise directed by the Board. The psychotherapy reports shall contain information describing Dr. Henson's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Henson's compliance with his treatment plan; Dr. Henson's mental status; Dr. Henson's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Henson shall ensure that his treating licensed mental health professional immediately notifies the Board of his failure to comply

with his psychotherapy treatment plan and/or any determination that Dr. Henson is unable to practice due to his psychiatric disorder. These psychotherapy reports shall be in addition to the reports submitted by Dr. Henson's treating psychiatrist. It is Dr. Henson's responsibility to ensure that all quarterly reports are received in the Board's offices no later than the due date for Dr. Henson's quarterly declaration.

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

The Board expressly reserves the right to disapprove any psychiatrist proposed to serve as Dr. Henson's designated treating psychiatrist and/or any licensed mental health professional proposed to serve as Dr. Henson's designated treating licensed mental health professional, or to withdraw approval of any such psychiatrist or licensed mental health professional previously approved to serve as Dr. Henson's designated treating psychiatrist or licensed mental health professional, in the event that the Secretary and Supervising Member of the Board determine that any such psychiatrist or licensed mental health professional has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

### **Monitoring Physician**

15. Before engaging in any medical practice, Dr. Henson shall submit to the Board in writing 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. Henson and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Henson and his medical practice, and shall review Dr. Henson'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. Henson and his medical practice, and on the review of Dr.

Henson's patient charts. Dr. Henson 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. Henson's quarterly declaration.

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

The Board expressly reserves the right to disapprove any person proposed to serve as Dr. Henson's designated monitoring physician, or to withdraw approval of any person previously approved to serve as Dr. Henson's designated monitoring physician, in the event that the Secretary and Supervising Member of the Board determine that any such monitoring physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

#### **Practice Plan**

16. Prior to engaging in any medical practice, Dr. Henson shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Henson's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Henson shall obtain the Board's prior approval for any alteration to the practice plan approved by the Board.

#### **Rehabilitation Program**

17. Dr. Henson shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.

Dr. Henson shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Henson's quarterly declarations.

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### **Aftercare**

18. Dr. Henson shall contact an appropriate impaired physicians committee, approved by the Board, to arrange for assistance in recovery or aftercare.
19. Dr. Henson shall maintain continued compliance with the terms of the aftercare contract entered into with a Board-approved treatment provider, provided that, where terms of the aftercare contract conflict with terms of this Consent Agreement, the terms of this Consent Agreement shall control.

### **Releases**

20. Dr. Henson 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 Dr. Henson's chemical dependency, psychiatric condition, or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. To the extent permitted by law, 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. Dr. Henson 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 plan, treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.

### **Required Reporting by Licensee**

21. Within thirty days of the effective date of this Consent Agreement, Dr. Henson shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services (including but not limited to third party payors) or is receiving training, and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Henson shall promptly provide a copy of this Consent Agreement to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments. In the event that Dr. Henson provides any health care services or health care direction or medical oversight to any emergency medical services organization or emergency medical services provider, within thirty days of the effective date of this Consent Agreement Dr. Henson shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, Dr. Henson shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an

acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

22. Within thirty days of the effective date of this Consent Agreement, Dr. Henson shall provide a copy of this Consent Agreement to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Dr. Henson further agrees to provide a copy of this Consent Agreement at time of application to the proper licensing authority of any state in which he applies for any professional license or for reinstatement of any professional license. Further, Dr. Henson shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
23. Dr. Henson shall promptly provide a copy of this Consent Agreement to all persons and entities that provide Dr. Henson chemical dependency and/or psychiatric treatment or monitoring. Further, Dr. Henson shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

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

#### **FAILURE TO COMPLY**

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Henson 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 Dr. Henson has violated any term, condition or limitation of this Consent Agreement, Dr. Henson 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**

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

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

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

#### **ACKNOWLEDGMENTS/LIABILITY RELEASE**

Dr. Henson acknowledges that he has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

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

Dr. Henson hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Dr. Henson acknowledges that his social security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

**EFFECTIVE DATE**

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

Mark O. Henson  
MARK OWEN HENSON, M.D.

7-2-10  
DATE

Lance A. Talmage, M.D.  
LANCE A. TALMAGE, M.D.  
Secretary

7-14-10  
DATE

JACK C. AMATO, M.D.  
JACK C. AMATO, M.D.  
Acting Supervising Member

7-15-10  
DATE

Cheryl D. Pokorny  
CHERYL D. POKORNY  
Enforcement Attorney

7/6/10  
DATE

**CONSENT AGREEMENT  
BETWEEN  
MARK OWEN HENSON, M.D.  
AND  
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Henson enters into this Consent Agreement being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

**BASIS FOR ACTION**

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for a violation of Section 4731.22(B)(15), Ohio Revised Code, for “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice; Section 4731.22(B)(19), Ohio Revised Code, for “[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills;” and/or Section 4731.22(B)(26), Ohio Revised Code, for “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 Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Sections 4731.22(B)(15) and 4731.22(B)(26), Ohio Revised Code, as set forth in the Entry of Order issued by the Board on January 14, 2009, [January 2009 Order], effective upon mailing on or about February 13, 2009, and as set forth herein, as well as the violation of Section 4731.22(B)(19), as set forth in Paragraph E, below. The Board expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement.
- C. Dr. Henson is seeking reinstatement of his certificate to practice medicine and surgery, license number 35.076766, which was revoked, with said revocation stayed,

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and was indefinitely suspended, but not less than nine months, pursuant to the aforementioned January 2009 Order.

- D. Dr. Henson states that he is not licensed to practice in any other state or jurisdiction.
- E. Dr. Henson admits that, following his relapse on propoxyphene during or about July 2008 and his admission of relapse to the Board on or about August 5, 2008, the Board summarily suspended his license to practice medicine and surgery in an Entry of Order dated August 13, 2008 [August 2008 Summary Suspension Order]. At the time of his relapse, Dr. Henson admits that he was subject a Step II Consent Agreement approved by the Board and effective on or about June 13, 2007 [June 2007 Step II Consent Agreement]. Dr. Henson admits that, under the terms of the June 2007 Step II Consent Agreement, he was subject to random urine screens. Dr. Henson also admits that, following his relapse on propoxyphene, he ceased complying with the terms of his June 2007 Step II Consent Agreement, which included failure to submit to random urine screens.

Dr. Henson also admits that, following issuance of the August 2008 Summary Suspension Order, he consumed alcohol on or about August 29, 2008, and that he did not immediately seek treatment. Further, Dr. Henson admits that, on or about August 30, 2008, he was charged criminally with Disorderly Intoxication, and that he was convicted of the charge on or about September 8, 2008.

Dr. Henson states, and the Board acknowledges receipt of information to support, that he entered residential treatment for chemical dependency at The Woods at Parkside [Parkside], a Board-approved treatment provider, on or about August 17, 2009, intending to complete 28 days of treatment. Dr. Henson further states that, on or about August 19, 2009, he left Parkside due to the unexpected death of his mother. Dr. Henson states, and the Board acknowledges receipt of information to support, that he returned to Parkside on or about August 22, 2009, to begin again 28 days of inpatient treatment. Dr. Henson states, and the Board acknowledges receipt of information to support, that he was discharged, treatment complete, on or about September 19, 2009. Dr. Henson states, and the Board acknowledges receipt of information to support, that following his discharge from Parkside, he entered into a monitoring agreement with the Ohio Physician Health Program.

Dr. Henson states, and the Board acknowledges receipt of information to support, that he is in compliance with the aftercare contract that he entered into with Parkside on or about September 18, 2009. Dr. Henson admits that such aftercare contract remains in effect to date.

Dr. Henson states, and the Board acknowledges receipt of information to support, that Harry P. Nguyen, M.D., Medical Director of Parkside, provided a written report indicating that Dr. Henson's ability to practice has been assessed and that he has been

found capable of practicing medicine according to acceptable and prevailing standards of care, so long as he follows all of his monitoring agreements and his continuing care contracts. In his letter, Dr. Nguyen notes that the consulting psychiatrist had diagnosed Dr. Henson with Bipolar Disorder. Dr. Henson states, and the Board acknowledges receipt of information to support, that David O. Goldberg, D.O., a physician certified in addiction medicine who has been approved by the Board to provide an assessment of Dr. Henson, provided a written report indicating that Dr. Henson's ability to practice has been assessed and that he has been found capable of practicing medicine according to acceptable and prevailing standards of care, so long as certain treatment and monitoring requirements are in place, including that he continue with medical management regarding his diagnosis of Bipolar Disorder.

Dr. Henson states, and the Board acknowledges receipt of information to support, that Dr. Henson has substantially fulfilled the conditions for reinstatement of his certificate to practice medicine and surgery in the State of Ohio, as established in the above-referenced January 2009 Order. Further, Dr. Henson states that he is entering into this Consent Agreement to address issues related to his diagnosis of Bipolar Disorder that became known to the Board subsequent to issuance of the January 2009 Order.

### **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 Dr. Henson to practice medicine and surgery in the State of Ohio shall be REINSTATED; the terms, conditions, and limitations set forth in this Consent Agreement shall supersede the probationary terms, conditions, and limitations established in the January 2009 Order; and Dr. Henson knowingly and voluntarily agrees with the Board to the following PROBATIONARY terms, conditions and limitations:

1. Dr. Henson shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
2. Dr. Henson 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 Consent Agreement. The first quarterly declaration must be received in the Board's offices on the date his quarterly declaration would have been due pursuant to the January 2009 Order, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. Dr. Henson 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 the January 2009 Order. Subsequent personal appearances must occur every three months thereafter, and/or as

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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.

4. Dr. Henson shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed. Further, the Secretary and Supervising Member of the Board shall have the discretion to grant a waiver of part or all of the probationary terms set forth in this Consent Agreement for occasional periods of absence of fourteen days or less. In the event that Dr. Henson resides and/or is employed at a location that is within fifty miles of the geographic border of Ohio and any of its contiguous states, Dr. Henson may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Henson is able to otherwise maintain full compliance with all other terms, conditions and limitations set forth in this Consent Agreement.
5. In the event Dr. Henson 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 this Consent Agreement.

## **MONITORING OF REHABILITATION AND TREATMENT**

### **Drug Associated Restrictions**

6. Dr. Henson shall keep a log of all controlled substances prescribed. Such log shall be submitted, in the format approved by the Board, on the date upon which Dr. Henson's quarterly declaration is due, or as otherwise directed by the Board. Further, Dr. Henson shall make his patient records with regard to such prescribing available for review by an agent of the Board immediately upon request.
7. Dr. Henson 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 Dr. Henson to administer or personally furnish controlled substances, Dr. Henson 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 and shall be submitted to the Board no later than the date upon which Dr. Henson's quarterly declaration is due, or as otherwise directed by the Board. Further, Dr. Henson shall make his patient records with regard to such

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prescribing, administering, or personally furnishing available for review by an agent of the Board immediately upon request.

### **Sobriety**

8. Dr. Henson shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Henson's history of chemical dependency. Further, in the event that Dr. Henson is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Henson shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. Henson received; the medical purpose for which he received said drug; the date such drug was initially received; and the dosage, amount, number of refills, and directions for use. Further, within thirty days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Henson shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.
9. Dr. Henson shall abstain completely from the use of alcohol.

### **Drug and Alcohol Screens/Drug Testing Facility and Collection Site**

10. Dr. Henson shall submit to random urine screenings for drugs and alcohol at least two times per month, or as otherwise directed by the Board. Dr. Henson 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, and shall include Dr. Henson's drug(s) of choice.

Dr. Henson shall abstain from the use of any substance and the consumption of poppy seeds or any other food or liquid that may produce a low level positive result in a toxicology screen. Dr. Henson acknowledges that he understands that the consumption or use of such substances, including but not limited to substances such as mouthwash or hand cleaning gel, may cause a positive drug screen that may not be able to be differentiated from intentional ingestion, and therefore such consumption or use is prohibited under this Consent Agreement.

All such urine screenings for drugs and alcohol shall be conducted through a Board-approved drug testing facility and collection site pursuant to the global contract between said facility and the Board, that provides for the Board to maintain ultimate control over the urine screening process and to preserve the confidentiality of all positive screening results in accordance with Section 4731.22(F)(5), Ohio Revised Code, and the screening process shall require a daily call-in procedure. Further, in the event that the Board exercises its discretion, as provided in Paragraph 11 below, to

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approve urine screenings to be conducted at an alternative drug testing facility and/or collection site or a supervising physician, such approval shall be expressly contingent upon the Board retaining ultimate control over the urine screening process in a manner that preserves the aforementioned confidentiality of all positive screening results.

Dr. Henson shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by Dr. Henson shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Consent Agreement. Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Consent Agreement.

Further, within thirty days of the effective date of this Consent Agreement, Dr. Henson shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug testing facility and/or collection site in order to facilitate the urine screening process in the manner required by this Consent Agreement. Further, Dr. Henson shall promptly provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Henson and the Board-approved drug testing facility and/or collection site. Dr. Henson's failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Consent Agreement. However, Dr. Henson and the Board further agree that in the event Dr. Henson previously entered into the aforementioned financial and contractual agreements pursuant to the requirements of a prior consent agreement with the Board under which Dr. Henson is currently participating in an ongoing urine screening process, then this requirement shall be waived under the instant consent agreement.

Dr. Henson shall ensure that the urine screening process performed through the Board-approved drug testing facility and/or collection site requires a daily call-in procedure; 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, Dr. Henson and the Board-approved drug testing facility and collection site shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Dr. Henson shall ensure that the Board-approved drug testing facility and/or collection site provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.

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In the event that the Board-approved drug testing facility and/or collection site becomes unable or unwilling to serve as required by this Consent Agreement, Dr. Henson must immediately notify the Board in writing, and make arrangements acceptable to the Board pursuant to Paragraph 11 below, as soon as practicable. Dr. Henson shall further ensure that the Board-approved drug testing facility and/or collection site also notifies the Board directly of its inability to continue to serve and the reasons therefore.

Dr. Henson acknowledges that the Board expressly reserves the right to withdraw its approval of any drug testing facility and/or collection site in the event that the Secretary and Supervising Member of the Board determine that the drug testing facility and/or collection site has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

11. Dr. Henson and the Board agree that it is the intent of this Consent Agreement that Dr. Henson shall submit his urine specimens to the Board-approved drug testing facility and collection site chosen by the Board. However, in the event that utilizing said Board-approved drug testing facility and/or collection site creates an extraordinary hardship upon Dr. Henson, as determined in the sole discretion of the Board, then subject to the following requirements, the Board may approve an alternate drug testing facility and/or collection site, or a supervising physician, to facilitate the urine screening process for Dr. Henson:
  - a. Within thirty days of the date upon which Dr. Henson is notified of the Board's determination that utilizing the Board-approved drug testing facility and/or collection site constitutes an extraordinary hardship upon Dr. Henson, he shall submit to the Board in writing for its prior approval the identity of either an alternate drug testing facility and collection site, or the name of a proposed supervising physician, to whom Dr. Henson shall submit the required urine specimens. In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Henson's residence or employment location, or to a physician who practices in the same locale as Dr. Henson. Dr. Henson shall ensure that the urine screening process performed through the alternate drug testing facility and/or collection site, or through the supervising physician, requires a daily call-in procedure; 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, Dr. Henson acknowledges that the alternate drug testing facility and collection site, or the supervising physician, shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.
  - b. Dr. Henson shall ensure that the alternate drug testing facility and/or collection site, or the supervising physician, provides quarterly reports to the Board, in a

format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.

- c. In the event that the designated alternate drug testing facility and/or collection site, or the supervising physician, becomes unable or unwilling to so serve, Dr. Henson must immediately notify the Board in writing. Dr. Henson shall further ensure that the previously designated alternate drug testing facility and collection site, or the supervising physician, also notifies the Board directly of the inability to continue to serve and the reasons therefore. Further, in order to ensure that there will be no interruption in his urine screening process, upon the previously approved alternate drug testing facility, collection site, or supervising physician becoming unable to serve, Dr. Henson shall immediately commence urine screening at the Board-approved drug testing facility and collection site chosen by the Board, until such time, if any, that the Board approves a subsequent alternate drug testing facility, collection site, or supervising physician, if requested by Dr. Henson.
  - d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Henson's designated alternate drug testing facility and/or collection site, or any person proposed to serve as his supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
  - e. In the event that the Board approved an alternate drug testing facility and/or collection site, or a supervising physician, pursuant to the January 2009 Order, Dr. Henson and the Board agree that the entity, facility or person previously approved by the Board to so serve pursuant to the January 2009 Order is hereby approved to continue as Dr. Henson's designated alternate drug testing facility and collection site or as his supervising physician under this Consent Agreement.
12. All screening reports required under this Consent Agreement from the Board-approved drug testing facility and/or collection site, or from the alternate drug testing facility and/or collection site or supervising physician, must be received in the Board's offices no later than the due date for Dr. Henson's quarterly declaration. It is Dr. Henson's responsibility to ensure that reports are timely submitted.
  13. The Board retains the right to require, and Dr. Henson agrees to submit, blood, urine, breath, saliva and/or hair specimens for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Henson, or for any

other purpose, at Dr. Henson's expense upon the Board's request and without prior notice. Dr. Henson's refusal to submit a specimen upon request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.

### **Mental Health Treatment**

14. Before engaging in any medical practice, Dr. Henson 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. Henson shall undergo and continue psychiatric treatment, including individual psychotherapy, as frequently as recommended by his treating psychiatrist, but at least once every three months, or as otherwise directed by the Board. Dr. Henson shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered. Dr. Henson 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. Henson's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Henson's compliance with his treatment plan; Dr. Henson's mental status; Dr. Henson's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Henson 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 Dr. Henson is unable to practice due to his psychiatric disorder. It is Dr. Henson's responsibility to ensure that quarterly reports are received in the Board's offices no later than the due date for Dr. Henson's quarterly declaration.

The psychotherapy required as part of Dr. Henson's psychiatric treatment pursuant to this paragraph may be delegated by Dr. Henson's treating psychiatrist to an appropriately licensed mental health professional approved in advance by the Board, so long as Dr. Henson's treating psychiatrist oversees/supervises such psychotherapy; includes information concerning Dr. Henson's participation and progress in psychotherapy in his or her quarterly reports; and continues to meet personally with Dr. Henson at least once every three months or as otherwise directed by the Board. Should the psychotherapy required pursuant to this provision be delegated to a licensed mental health professional, Dr. Henson shall ensure that psychotherapy reports are forwarded by his treating licensed mental health professional to the Board on a quarterly basis, or as otherwise directed by the Board. The psychotherapy reports shall contain information describing Dr. Henson's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Henson's compliance with his treatment plan; Dr. Henson's mental status; Dr. Henson's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Henson shall ensure that his treating licensed mental health professional immediately notifies the Board of his failure to comply

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with his psychotherapy treatment plan and/or any determination that Dr. Henson is unable to practice due to his psychiatric disorder. These psychotherapy reports shall be in addition to the reports submitted by Dr. Henson's treating psychiatrist. It is Dr. Henson's responsibility to ensure that all quarterly reports are received in the Board's offices no later than the due date for Dr. Henson's quarterly declaration.

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

The Board expressly reserves the right to disapprove any psychiatrist proposed to serve as Dr. Henson's designated treating psychiatrist and/or any licensed mental health professional proposed to serve as Dr. Henson's designated treating licensed mental health professional, or to withdraw approval of any such psychiatrist or licensed mental health professional previously approved to serve as Dr. Henson's designated treating psychiatrist or licensed mental health professional, in the event that the Secretary and Supervising Member of the Board determine that any such psychiatrist or licensed mental health professional has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

### **Monitoring Physician**

15. Before engaging in any medical practice, Dr. Henson shall submit to the Board in writing 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. Henson and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Henson and his medical practice, and shall review Dr. Henson'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. Henson and his medical practice, and on the review of Dr.

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Henson's patient charts. Dr. Henson 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. Henson's quarterly declaration.

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

The Board expressly reserves the right to disapprove any person proposed to serve as Dr. Henson's designated monitoring physician, or to withdraw approval of any person previously approved to serve as Dr. Henson's designated monitoring physician, in the event that the Secretary and Supervising Member of the Board determine that any such monitoring physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

### **Practice Plan**

16. Prior to engaging in any medical practice, Dr. Henson shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Henson's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Henson shall obtain the Board's prior approval for any alteration to the practice plan approved by the Board.

### **Rehabilitation Program**

17. Dr. Henson shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.

Dr. Henson shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Henson's quarterly declarations.

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### **Aftercare**

18. Dr. Henson shall contact an appropriate impaired physicians committee, approved by the Board, to arrange for assistance in recovery or aftercare.
19. Dr. Henson shall maintain continued compliance with the terms of the aftercare contract entered into with a Board-approved treatment provider, provided that, where terms of the aftercare contract conflict with terms of this Consent Agreement, the terms of this Consent Agreement shall control.

### **Releases**

20. Dr. Henson 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 Dr. Henson's chemical dependency, psychiatric condition, or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. To the extent permitted by law, 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. Dr. Henson 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 plan, treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.

### **Required Reporting by Licensee**

21. Within thirty days of the effective date of this Consent Agreement, Dr. Henson shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services (including but not limited to third party payors) or is receiving training, and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Henson shall promptly provide a copy of this Consent Agreement to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments. In the event that Dr. Henson provides any health care services or health care direction or medical oversight to any emergency medical services organization or emergency medical services provider, within thirty days of the effective date of this Consent Agreement Dr. Henson shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, Dr. Henson shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an

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acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

22. Within thirty days of the effective date of this Consent Agreement, Dr. Henson shall provide a copy of this Consent Agreement to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Dr. Henson further agrees to provide a copy of this Consent Agreement at time of application to the proper licensing authority of any state in which he applies for any professional license or for reinstatement of any professional license. Further, Dr. Henson shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
23. Dr. Henson shall promptly provide a copy of this Consent Agreement to all persons and entities that provide Dr. Henson chemical dependency and/or psychiatric treatment or monitoring. Further, Dr. Henson shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

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

### **FAILURE TO COMPLY**

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Henson 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 Dr. Henson has violated any term, condition or limitation of this Consent Agreement, Dr. Henson 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**

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

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

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

### **ACKNOWLEDGMENTS/LIABILITY RELEASE**

Dr. Henson 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.

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

Dr. Henson hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Dr. Henson acknowledges that his social security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

**EFFECTIVE DATE**

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

*Mark O. Henson*

MARK OWEN HENSON, M.D.

*7-2-10*

DATE

*Lance A. Talmage MD*

LANCE A. TALMAGE, M.D.  
Secretary

*7-14-10*

DATE

*Jack C. Amato*

JACK C. AMATO, M.D.  
Acting Supervising Member

*7-15-10*

DATE

*Cheryl D. Pokorny*

CHERYL D. POKORNY  
Enforcement Attorney

*7/6/10*

DATE

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# State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.  
Executive Director

(614) 466-3934  
med.ohio.gov

January 14, 2009

Mark Owen Henson, M.D.  
114 South Street  
Leesburg, OH 45135

RE: Case No. 08-CRF-104

Dear Doctor Henson:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Patricia A. Davidson, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 14, 2009, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of an original Notice of Appeal with the State Medical Board of Ohio and a copy of the Notice of Appeal 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, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO



Lance A. Talmage, M.D.  
Secretary

LAT:jam  
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3934 3683 6101  
RETURN RECEIPT REQUESTED

*Mailed 2-13-09*

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Patricia A. Davidson, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 14, 2009, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Mark Owen Henson, M.D., Case No. 08-CRF-104, 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.



(SEAL)

Lance A. Talmage, M.D.  
Secretary

January 14, 2009

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

\*

\*

CASE NO. 08-CRF-104

MARK OWEN HENSON, M.D.

\*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on January 14, 2009.

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

It is hereby ORDERED, that:

- A. **REVOCAION, STAYED; SUSPENSION:** The certificate of Mark Owen Henson, M.D., to practice medicine and surgery in the State of Ohio shall be REVOKED; such revocation is STAYED, and Dr. Henson's certificate shall be SUSPENDED for an indefinite period of time but not less than nine months from the effective date of this Order.
- B. **INTERIM MONITORING:** During the period that Dr. Henson's certificate to practice in Ohio is suspended, he shall comply with the following terms, conditions, and limitations:
1. **Obey the Law:** Dr. Henson shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
  2. **Quarterly Appearances and Quarterly Declarations:** Dr. Henson shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Order, or as otherwise requested by 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.

Dr. Henson 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 or before the first day of the third month following the month in which this Order becomes effective, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Sobriety**

- a. ***Abstention from Drugs:*** Dr. Henson 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 Dr. Henson's history of chemical dependency. Further, in the event that Dr. Henson is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Henson shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber, the name of the drug Dr. Henson received, the medical purpose for which he received the drug, the date the drug was initially received, and the dosage, amount, number of refills, and directions for use. Further, within 30 days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Henson shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.
- b. ***Abstention from Alcohol:*** Dr. Henson shall abstain completely from the use of alcohol.

4. **Drug & Alcohol Screens; Drug Testing Facility and Collection Site**

- a. Dr. Henson shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Henson 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, and shall include Dr. Henson's drug(s) of choice.
- b. Dr. Henson shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term "toxicology screen" is also used herein for "urine screen" and/or "drug screen.")

All specimens submitted by Dr. Henson shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Order.

Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Order.

- c. Dr. Henson shall abstain from the use of any substance that may produce a positive result on a toxicology screen, including the consumption of poppy seeds or other food or liquid that may produce a positive result on a toxicology screen.

Dr. Henson shall be held to an understanding and knowledge that the consumption or use of various substances, including but not limited to mouthwashes, hand-cleaning gels, and cough syrups, may cause a positive toxicology screen and that unintentional ingestion of a substance is not distinguishable from intentional ingestion on a toxicology screen, and that, therefore, consumption or use of substances that may produce a positive result in a toxicology screen is prohibited under this Order.

- d. All screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and a Board-approved collection site, except as provided in Paragraph 6 below (“Alternative Drug-testing and/or Collection Site”). Further, the screening process shall require a daily call-in procedure.
- e. Within 30 days of the effective date of this Order, Dr. Henson shall enter into the necessary financial and/or contractual arrangements with a Board-approved drug-testing facility and/or collection site (“DFCS”) in order to facilitate the screening process in the manner required by this Order.

Further, within 30 days of making such arrangements, Dr. Henson shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Henson and the Board-approved DFCS. Dr. Henson’s failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Order.

- f. Dr. Henson shall ensure that the urine-screening process performed through the Board-approved DFCS requires a daily call-in procedure, 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, Dr. Henson and the Board-approved DFCS shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- g. Dr. Henson shall ensure that the Board-approved DFCS provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order and whether all urine screens have been negative.
- h. In the event that the Board-approved DFCS becomes unable or unwilling to serve as required by this Order, Dr. Henson must immediately notify the Board in

writing, and make arrangements acceptable to the Board, pursuant to Paragraph 6 below, as soon as practicable. Dr. Henson shall further ensure that the Board-approved DFCS also notifies the Board directly of its inability to continue to serve and the reasons therefore.

- i. Dr. Henson acknowledges that the Board expressly reserves the right to withdraw its approval of any DFCS in the event that the Secretary and Supervising Member of the Board determine that the DFCS has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

5. **Alternative Drug-testing Facility and/or Collection Site:** It is the intent of this Order that Dr. Henson shall submit urine specimens to a Board-approved DFCS chosen by the Board. However, in the event that using the Board-approved DFCS creates an extraordinary hardship on Dr. Henson, as determined in the sole discretion of the Board, then, subject to the following requirements, the Board may approve an alternative DFCS or a supervising physician to facilitate the urine-screening process for Dr. Henson.

- a. Within 30 days of the date on which Dr. Henson is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Dr. Henson, he shall submit to the Board in writing for its prior approval the identity of either an alternative DFCS or the name of a proposed supervising physician to whom Dr. Henson shall submit the required urine specimens.

In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Henson's residence or employment location, or to a physician who practices in the same locale as Dr. Henson. Dr. Henson shall ensure that the urine-screening process performed through the alternative DFCS or supervising physician requires a daily call-in procedure, 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, Dr. Henson acknowledges that the alternative DFCS or supervising physician shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- b. Dr. Henson shall ensure that the alternative DFCS or supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- c. In the event that the designated alternative DFCS or the supervising physician becomes unable or unwilling to so serve, Dr. Henson must immediately notify the Board in writing. Dr. Henson shall further ensure that the previously designated alternative DFCS or the supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefore. Further, in

the event that the approved alternative DFCS or supervising physician becomes unable to serve, Dr. Henson shall, in order to ensure that there will be no interruption in his urine-screening process, immediately commence urine screening at the Board-approved DFCS chosen by the Board, until such time, if any, that the Board approves a different DFCS or supervising physician, if requested by Dr. Henson.

- d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Henson's designated alternative DFCS or any person proposed to serve as his supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
6. **Reports Regarding Drug & Alcohol Screens:** All screening reports required under this Order from the Board-approved DFCS, the alternative DFCS and/or supervising physician must be received in the Board's offices no later than the due date for Dr. Henson's quarterly declaration. It is Dr. Henson's responsibility to ensure that reports are timely submitted.
7. **Additional Screening without Prior Notice:** On the Board's request and without prior notice, Dr. Henson must provide a specimen of his blood, breath, saliva, urine, and/or hair for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Henson, or for any other purpose, at Dr. Henson's expense. Dr. Henson's refusal to submit a specimen on request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.
8. **Rehabilitation Program:** Dr. Henson shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or C.A., no less than three times per week, or as otherwise ordered by the Board. Substitution of any other specific program must receive prior Board approval. Dr. Henson shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Henson's quarterly declarations.
9. **Releases:** Dr. Henson 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 Dr. Henson's chemical dependency/abuse, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, 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.

Dr. Henson further shall 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 Order.

10. **Absence from Ohio**: Dr. Henson shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the term of suspension, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.

14. **Required Reporting of Change of Address**: Dr. Henson shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.

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

1. **Application for Reinstatement or Restoration**: Dr. Henson shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions**: Dr. Henson shall have maintained compliance with all the terms, conditions and limitations set forth in Paragraph B of this Order.
3. **Evidence of Unrestricted Licensure in Other States**: At the time he submits his application for reinstatement or restoration, Dr. Henson shall provide written documentation acceptable to the Board verifying that Dr. Henson otherwise holds a full and unrestricted license to practice in all other states in which he is licensed at the time of application or has been in the past licensed, or that he would be entitled to such license but for the nonpayment of renewal fees.
4. **Demonstration of Ability to Resume Practice**: Dr. Henson shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care. Such demonstration shall include but shall not be limited to the following:
  - a. Certification from a treatment provider approved under Section 4731.25, Ohio Revised Code, that Dr. Henson has successfully completed a minimum of twenty-eight days of inpatient/residential treatment for chemical dependency/abuse. Such treatment shall be completed without interruption. Further, such treatment shall be provided in accordance with Rule 4731-16, Ohio Administrative Code, by a treatment provider approved under Section

4731.25, Ohio Revised Code, who has access to Dr. Henson's treatment records and this Order.

- b. Evidence of continuing full compliance with an aftercare contract with a treatment provider approved under Section 4731.25, Ohio Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10, Ohio Administrative Code.
- c. Evidence of continuing full compliance with this Order.
- d. Two written reports indicating that Dr. Henson's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care, with respect to chemical dependence/abuse.

The reports shall have been made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Henson. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Henson shall provide the assessors with copies of patient records from any evaluation and/or treatment that he has received, and a copy of this Order. The reports of the assessors shall include any recommendations for treatment, monitoring, or supervision of Dr. Henson, and any conditions, restrictions, or limitations that should be imposed on Dr. Henson's practice. The reports shall also describe the basis for the assessor's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement or restoration. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

5. **Additional Evidence of Fitness To Resume Practice/SPEX**: In the event that Dr. Henson 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/her fitness to resume practice.

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

1. **Obey the Law:** Dr. Henson shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
2. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Henson shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
3. **Practice Plan:** Prior to Dr. Henson's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Henson shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Henson's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Henson shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Dr. Henson submits his practice plan, he shall also 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 or Supervising Member will give preference to a physician who practices in the same locale as Dr. Henson and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Henson and his medical practice, and shall review Dr. Henson'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. Henson and his practice, and on the review of Dr. Henson's patient charts. Dr. Henson 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. Henson's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Henson must immediately so notify the Board in writing. In addition, Dr. Henson shall make arrangements acceptable to the Board for another monitoring physician within 30 days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Henson 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. **Tolling of Probationary Period while Out of Compliance:** In the event Dr. Henson 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.

- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Henson's certificate will be fully restored.
- F. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Henson violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.
- G. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER**

- 1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Henson shall provide a copy of this Order to all employers or entities with which he is under contract to provide health-care services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or health-care center where he has privileges or appointments.

In the event that Dr. Henson provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider, Dr. Henson shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

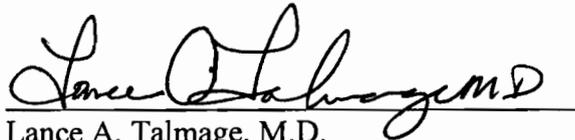
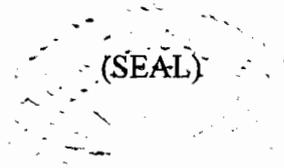
- 2. **Required Reporting To Other Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Henson shall provide a copy of this Order to the proper licensing authority of any State or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate.

Dr. Henson further shall provide a copy of this Order at the time of application to the proper licensing authority of any State or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Henson received from the Board written notification of the successful completion of the probation.

- 3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the effective date of this Order, Dr. Henson shall promptly provide a copy of this Order to all persons and entities that provide chemical-dependency treatment to or monitoring of Dr. Henson.
- 4. **Required Documentation of the Reporting Required by Paragraph G:** Dr. Henson shall provide the Board with one of the following documents as proof of each required notification within 30 days of the date of each such notification: (1) the

return receipt of certified mail within 30 days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

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



Lance A. Talmage, M.D.

Secretary

January 14, 2009

Date

2008 DEC -9 A 10:10

**REPORT AND RECOMMENDATION  
IN THE MATTER OF MARK OWEN HENSON, M.D.  
Case No. 08-CRF-104**

The Matter of Mark Owen Henson, M.D., was heard by Patricia A. Davidson, Hearing Examiner for the State Medical Board of Ohio, on November 19, 2008.

**INTRODUCTION**

Basis for Hearing

In a letter and entry dated August 13, 2008, the State Medical Board of Ohio notified Mark Owen Henson, M.D., that the Board had summarily suspended his certificate to practice allopathic medicine and surgery in Ohio. The Board stated that this action was based on clear and convincing evidence of the following: that Dr. Henson has an impairment as that term is used in Ohio Revised Code Section [R.C.] 4731.22(B)(26); that he violated a consent agreement with the Board, thus violating R.C. 4731.22(B)(15); and that his impairment and conduct as described present a danger of immediate and serious harm to the public, thus authorizing summary suspension pursuant to R.C. 4731.22(G).<sup>1</sup>

In addition, the Board notified Dr. Henson that it intended to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to issue or reinstate his certificate, or to reprimand him or place him on probation due to alleged violations of R.C. 4731.22(B)(15) and 4731.22(B)(26). The Board advised Dr. Henson of his right to request a hearing, and received his hearing request on September 9, 2008. (Joint Exhibit [Jt. Ex.] 1, Tr. at 12)

Appearances

Nancy H. Rogers, Attorney General, and Karen A. Unver, Assistant Attorney General, on behalf of the State.

Dr. Henson appeared *pro se*.

**EVIDENCE EXAMINED**

Testimony Heard

Mark Owen Henson, M.D.

Exhibits Examined

Joint Exhibit 1: Copy of the Notice of Summary Suspension and Opportunity for Hearing, with attached consent agreements.

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<sup>1</sup>The State did not offer into evidence any procedural exhibits. (Tr. at 11-12) However, the Case Record File includes the order, notices, Dr. Henson's request for hearing, and related documents.

### SUMMARY OF EVIDENCE

1. During the hearing, Mark Owen Henson, M.D., testified that he did not dispute the factual allegations set forth in the notice of opportunity for hearing dated August 13, 2008. He admitted the truth of all the factual allegations made by the Board, which are set forth in paragraphs numbered 1, 2 and 3 in the notice. (Tr. at 7-10, 16; Jt. Ex. 1) Dr. Henson's admissions form the basis for the Findings of Fact set forth below.
2. With regard to terminology used in the notice, Dr. Henson testified that propoxyphene is the generic term for a drug known by the brand name of Darvon, a synthetic opioid-receptor medication used to treat pain. He further testified that Darvocet is a combination of propoxyphene and acetaminophen. (Tr. at 14)
3. The Hearing Examiner asked Dr. Henson about the general nature of his medical practice prior to the suspension. Dr. Henson testified that, at the time his relapse occurred, he was working in a rural area in a small family practice. He stated that the practice was supposed to have two full-time physicians and a nurse practitioner, but that he had been the only full-time physician and that the nurse practitioner had left for other employment. He stated that the position for another full-time physician was empty, although there was a part-time physician who helped. (Tr. at 25-26 )
4. Dr. Henson stated that, by the time the relapse occurred in July 2008, he had become emotionally overwhelmed by the situation at work and had begun to dread coming into the office. He had a large percentage of patients who were financially needy and very sick, and the situation was very stressful for him. He had numerous patients who were struggling with addiction, and he found it very hard to deal with these patients in his position as a recovering addict. He had tried as much as he could to assist them in getting the help they needed, but it was nonetheless difficult for him. In addition, he stated that many of his patients were deprived economically due to depressed conditions in their rural area, where conditions are even worse than in other areas of the country. The needs of his patients with severe illnesses had become very distressing to him emotionally, and he had become increasingly frustrated in battling insurance companies. (Tr. at 23-25)

Dr. Henson explained that he had thoroughly enjoyed "the clinical experience, the face-to-face time in the office with the patients," and he felt that he had been good at the work and loved by his patients, as evidenced by the warm support that many of them have shown him since he ceased practicing. However, most of the time, his practice had felt like a battle with the bureaucracy of insurance companies and paperwork, which was something that he had not been prepared for in medical school. (Tr. at 23-24)

5. Dr. Henson testified that he currently has no intention of ever returning to the clinical practice of medicine. He explained that, after the relapse, he had been very close to giving up on medicine forever. He felt that it was "finished" for him. However, he stated that, after a while, he was able to consider his relapse and his future less emotionally and more rationally. He stated that the Board's notice letter and the Board's staff had explained his options to him, and he had come to believe that it was not wise, while in the midst of the discouragement and

confusion from the relapse, to shut the door forever on being a physician. He stated that he ultimately decided to request a hearing to ask for the chance to return to the practice of medicine some day and in the hope that the Board would not completely foreclose that possibility. (Tr. at 16-19, 28-30)

6. Dr. Henson explained that, at present, he is exploring an opportunity to teach science at a community college, which he believes he would enjoy very much and find fulfilling. He stated that he is also exploring the possibility of working in sales of medical equipment and related careers. He testified that he is attending AA meetings and is clean and sober. He explained that, at present, it is more important for him to concentrate on his recovery and keeping his family together than to try to resume the practice of medicine. He stated that he wants to spend time with his family, working on his recovery, finding work that would be more fulfilling, and doing things that he enjoys and needs for his own well-being. Dr. Henson testified that he is doing better personally and feeling more content with his life, even under the difficult circumstances he is dealing with at present with the problems caused by his relapse. (Tr. at 17-18, 27-28)
7. Dr. Henson acknowledged that his recovery is an ongoing battle and that he has learned through Alcoholics Anonymous that it will be a never-ending battle. He noted, however, that, as with “any fatal disease, it can be put into remission and with appropriate work and treatment can be held at bay.” (Tr. at 17)
8. Dr. Henson further testified that, at this time, he is unemployed and has no income, and cannot afford the cost of Board monitoring, which he said had cost him about \$500 per month. Further, Dr. Henson stated that, when he was working in his medical practice, he had found it very hard to find the time for traveling five hours roundtrip to attend his aftercare sessions in Columbus, because there are no approved providers near his home in Leesburg, Ohio. He stated that he would also attend a Caduceus meeting and a counseling session during his trip to Columbus for the aftercare session. Dr. Henson testified that he realizes that other physicians make equally long drives for aftercare and other aspects of compliance, and he knows it is absolutely necessary and important if one wants to practice medicine. Indeed, he stated that traveling to Columbus for the aftercare, Caduceus meetings, and counseling sessions “was a wonderful experience” and that he wished it were offered closer to where he lives. However, he believes that, given the very low probability that he will ever return to the practice of medicine, he does not want to make the expenditure of time and money at present that would be necessary for full compliance with a consent agreement or Board order. (Tr. at 16-20)
9. Dr. Henson explained that he does not disagree with the level of monitoring but simply does not feel capable at present of complying fully. He stated his belief that it would be many years before he might be interested in returning to practice, if ever, and that he understands that he would be expected to demonstrate possession of up-to-date medical knowledge and skills, at the Board’s direction. Dr. Henson noted that, if he ever seeks to return to the practice, his situation would be like that of someone who is newly applying for a license, when there is no mechanism at all to know what the person has actually been doing with regard to drugs or alcohol during the years preceding the application. In his case, however,

the Board would know that he has a history of chemical dependence, and he would be willing to do whatever the Board asked him to do. (Tr. at 16-21, 31-34)

10. Dr. Henson asks the Board not to eliminate completely any future chance of his entering into, and complying with, a new consent agreement with the Board, in the event that he changes his mind about wanting to practice. He stated that, although he does not contemplate ever returning to clinical treatment of patients, the possession of a certificate to practice could perhaps assist him in the future with obtaining a position in medical research, medical sales, or medical administration of some kind. (Tr. at 16-21, 33-34)

### FINDINGS OF FACT

1. In December 2006, Mark Owen Henson, M.D., entered into a Step I Consent Agreement with the Board [Step I Agreement] in lieu of formal proceedings based on his violation of R.C. 4731.22(B)(26). In the Step I Agreement, he admitted that he had relapsed on alcohol and that he was currently impaired in his ability to practice medicine and surgery due to the excessive use or abuse of alcohol.

Further, in the Step I Agreement, Dr. Henson agreed to certain 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 90 days, with specified conditions for reinstatement.

2. In June 2007, Dr. Henson entered into a Step II Consent Agreement with the Board [Step II Agreement], which provided for reinstatement of his certificate to practice medicine and surgery in the State of Ohio, subject to certain terms, conditions and limitations. To date, he remains subject to the Step II Agreement, which includes the following provision in Paragraph 8:

Dr. Henson 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 his history of chemical dependency.

The Step II Agreement also required Dr. Henson to participate in a urine-screening program.

3. On or about July 10, 2008, Dr. Henson submitted a urine specimen that tested positive for propoxyphene, a result that was GC/MS confirmed. When informed of the test result by his supervising physician, Dr. Henson initially denied using propoxyphene, and the split sample of his urine was submitted for retesting. The split sample also tested positive for propoxyphene and was GC/MS confirmed for the presence of propoxyphene. Further, on or about August 5, 2008, Dr. Henson notified a representative of the Board that he had in fact taken Darvocet. At hearing, he again admitted that he had taken that drug, which contains propoxyphene.

4. In the Step II Consent Agreement, in the "Failure to Comply" provision, Dr. Henson also agreed that, if the Secretary and Supervising Member of the Board were to determine that there was clear and convincing evidence that he had violated any term, condition or limitation of the agreement, the violation, as alleged, would also constitute clear and convincing evidence that his continued practice of medicine presents a danger of immediate and serious harm to the public for purposes of initiating a summary suspension pursuant to R.C. 4731.22(G).

### CONCLUSIONS OF LAW

1. Dr. Henson's acts, conduct, and/or omissions as set forth in Findings of Fact 1 through 3 above, individually and/or collectively, constitute "[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," as that language is used in R.C. 4731.22(B)(26).
2. Further, Dr. Henson's acts, conduct, and/or omissions as set forth above in Findings of Fact 2 and 3, individually and/or collectively, constitute a "[v]iolation of the conditions of limitation placed by the board upon a certificate to practice," as that language is used in R.C. 4731.22(B)(15).
3. Last, Dr. Henson's admissions regarding his conduct, his Step II Consent Agreement, and his positive urine screen, as set forth above in Findings of Fact 1 through 4, establish that the Board had sufficient grounds for summary suspension of his certificate pursuant to R.C. 4731.22(G).

\* \* \* \* \*

At the hearing, Dr. Henson did not dispute any of the Board's allegations, but testified that he cannot afford the cost of Board monitoring and currently does not plan to return to the practice of medicine. However, he entreated the Board not to close the book on his medical career forever.

The Hearing Examiner found Dr. Henson to be cooperative, sincere, humble and remorseful, although he nonetheless appeared to be engaging in a certain amount of denial and rationalization about his reasons for not wanting to be monitored at present. However, his inability to view his situation objectively is not surprising, given the nature of chemical dependency.

The Hearing Examiner believes that a revocation is warranted in this matter based on the admitted impairment and the inability and/or unwillingness to comply with the Board's monitoring requirements at this time. However, a permanent revocation does not appear to be appropriate in these circumstances. In cases where an impaired licensee is not currently interested in pursuing recovery under Board supervision, the Board has often ordered a non-permanent revocation based on the potential for change and recovery in the future.

**PROPOSED ORDER**

It is hereby ORDERED that:

The certificate of Mark Owen Henson, M.D., to practice allopathic medicine and surgery in the State of Ohio shall be REVOKED.

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

  
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Patricia A. Davidson  
Hearing Examiner

# State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.  
Executive Director

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## EXCERPT FROM THE MINUTES OF JANUARY 14, 2009

### REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDER

Dr. Madia announced that the Board would now consider the Reports and Recommendations and the Proposed Findings and Proposed Order appearing on its agenda. He noted that the Report and Recommendation in the Matter of Lary R. Korn, D.O., has been pulled from this month's agenda.

Dr. Madia asked whether each member of the Board had received, read and considered the hearing record; the Findings of Fact, Conclusions of Law and Proposed Orders, and any objections filed in the matters of Haroon Akhtar, M.D.; Glenn A. Bollard, M.D.; Mark Owen Henson, M.D.; Andrew John Holan; Kymberly L. Jacobs; Randall Lewis Knox; and John Fred Sylvester, Jr. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

Dr. Madia 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. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye

Dr. Steinbergh - aye  
Dr. Madia - aye

Dr. Madia 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. They may, however, participate in the matters of Dr. Akhtar, as that case is not disciplinary in nature and concerns only the doctor's qualifications for licensure. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

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

.....  
MARK OWEN HENSON, M.D.

Dr. Madia directed the Board's attention to the matter of Mark Owen Henson, M.D. He advised that no objections were filed to Hearing Examiner Davidson's Report and Recommendation.

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

Dr. Henson thanked the Board for allowing him to address it, and he commented that he has nothing formally prepared. He added that it is his thoughts and experiences over the past few years that brings him before the Board today. Dr. Henson advised that he's not here to dispute the issue at hand. He's only here to go on the record to help clarify some things and to bring the Board up to date on where he is in his recovery and personal life.

Dr. Henson stated that this violation of his Step II agreement, which occurred some time in July, was stupidity. It was a snap decision at that moment in time. Dr. Henson stated that he had been doing quite well and was compliant with the agreement. He was practicing medicine and actively participating in his own recovery. He was not completely happy with the situation because of where he lives and the distance he has to drive for aftercare at Parkside, and various things. It was very demanding on his schedule. Dr. Henson stated that, as far as twelve-step meetings and things like that, it's very easy. There's plenty available where he lives. However, aftercare was difficult.

Dr. Henson stated that the day he took the Darvocet, it was not anything that was premeditated, nothing that he had planned. It was over the holiday, around July 4, and he'd gone out running with his wife. He stated that a year and a half to two years ago they used to run together frequently. He did experience a back injury with a herniation and he went through surgery in March a couple of years ago. After that time, it interfered with his running. He went through a period of recovery from that injury and he has completely

recovered in that respect. He was out of shape when he ran in July. Dr. Henson stated that it wasn't so much a problem with discomfort from running, but his allergies were bothering him, they'd run out to his mother's, and he was actually looking for some Visine. Dr. Henson stated that that's his home, where he grew up, and he felt comfortable looking through things. He was looking for some Visine when he happened upon an old prescription for Darvocet. Dr. Henson stated that it was almost a knee-jerk reflex. He was in some discomfort, and Ibuprofen would have probably been as valuable and much less problematic with his agreement with the Board, but he made the mistake of taking a couple Darvocet. He commented that that certainly changed a lot of things.

Dr. Henson stated that in one respect, though, it has changed a lot of things for the better. It's enabled him to look at his recovery in a different light, realizing how fragile this condition is and how easily you can go from recovery to that addictive way of thinking again. He stated that he knew it was a mistake when it happened, but, being fearful, he opted not to tell anybody what had happened. A few days went by and he was not called for a toxicology screen. It was four or five days after the fact when he was called for a random urine screen, and although in the back of his mind he had some concerns, he thought that maybe it would slip through and it didn't. His first thought was to deny it and come up with some harebrained scheme to fight it, but then he thought that that was just self-defeating.

Dr. Madia advised Dr. Henson that he has one more minute to complete his statement.

Dr. Henson stated that he just wants to apologize for violating his agreement with the Board, but after that time his thinking was that he probably wouldn't even try to regain his license. There was a lot of confusion and whatnot. After a period of time, reality set in as to what he would be giving up, and he decided that he would actively participate in a treatment program. Today he's fully prepared. He is back to work, teaching at a community college, and he is now more financially able to pay for the cost of the toxicology screens and aftercare. At this point, he would like to come back into compliance with the Ohio State Medical Board.

Dr. Madia asked whether the Assistant Attorney General wished to respond.

Ms. Unver stated that she has no response.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF MARK OWEN HENSON, M.D. MR. HAIRSTON SECONDED THE MOTION.**

Dr. Madia stated that he would now entertain discussion in the above matter.

Dr. Steinbergh noted that the Hearing Examiner's Proposed Order is for revocation, which was developed because Dr. Henson did not want to be monitored by this Board. The Proposed Order would give Dr. Henson time out to get well and does not force him to comply with a consent agreement. It would be Dr. Henson's responsibility to come back if he wants to, and it would be his responsibility to demonstrate his

wellness and competency. Dr. Steinbergh stated that she came ready to vote on that Proposed Order. However, today Dr. Henson comes before the Board and asks that the Board develop another consent agreement for him. Dr. Steinbergh stated that, although she's in favor of that, she would have to ask how the Board should proceed.

Ms. Thompson suggested that the Board could handle this with an alternative order.

Dr. Egner stated that she would like to see Dr. Henson get better and added that she's disappointed when a young person gives up on medicine. She expressed concern, however, for Dr. Henson showing up today and saying, not very enthusiastically, that he's had an epiphany. Dr. Egner stated that she thinks that Dr. Henson needs significant suspension time to know that medicine is what he truly wants to do and that he's ready to do it, so that he doesn't violate the Board's Order in the next six months and find himself right back where he is because, mentally, he really wasn't ready to do this. She suggested that Dr. Henson's license be non-permanently revoked and that he take the time that he needs to really make sure that this is the right decision for him, and then he can reapply. Dr. Egner stated that either way is fine with her, as long as she's assured that he really does mean this. She stated that she's not sure of that today.

Mr. Hairston stated that he feels that Dr. Henson was honest with the Board, and that he was intimidated a little bit by sitting in front of the Board. Mr. Hairston stated that he believes that Dr. Henson has taken this seriously. He stated that the Board should give Dr. Henson the opportunity to work the program that the Board had set up for him. Mr. Hairston commented that, sometimes when you're out there and something happens to you, you don't respond the way everyone wants you to respond. Mr. Hairston stated that, with Dr. Henson's willingness to come before the Board today and be honest about his being here and what he wants to do, the Board should work with him.

Dr. Amato agreed with Mr. Hairston that the Board should work with Dr. Henson. He added that he's not sure that the Board would want to allow a 180 turn at this late stage in the process. He suggested that an alternative order be drafted that would stay the proposed revocation and then go into a consent agreement. Dr. Amato stated that he can see where, with the economics involved, he could not afford the kind of program he needed. Dr. Amato commented that Dr. Henson's gotten his life together a little bit, and this is somebody who really realizes he's not done what he should have done and he wants another chance. Dr. Amato stated that he wants to give Dr. Henson another chance. He would like to stay the Proposed Order and enter into a consent agreement, if that's legally possible.

Dr. Steinbergh stated that Dr. Henson entered into a Step I Consent Agreement in December 2006. He had a suspension of not less than 90 days. On June 13 he entered into a Step II. In August 2008, the Board summarily suspended his license due to his relapse, and his license has been suspended since that time. Dr. Steinbergh suggested that an alternative be drafted that would order a revocation, stay the revocation, and suspend his license for not less than nine months or a year. Dr. Steinbergh stated that she would not personally agree to reduce any suspension time by the time he's already been suspended. She added that, then, the Board could develop a Step I agreement, consistent with the Board's other step 1 agreements. The question is whether or not he needs to reenter a 28-day program. She stated that she doesn't know

when his last treatment program was, but the Board could take a look at that.

Dr. Suppan asked whether Dr. Steinbergh would suggest an evaluation in this case to determine whether a 28-day inpatient program is necessary.

Dr. Steinbergh stated that she would.

**DR. STEINBERGH MOVED TO TABLE THE REPORT AND RECOMMENDATION IN THE MATTER OF MARK OWEN HENSON, M.D., TO DEVELOP AN ALTERNATIVE ORDER. DR. SUPPAN SECONDED THE MOTION. A vote was taken:**

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

When the matter was removed from the table, later in the meeting, Mr. Albert was absent.

**DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF MARK OWEN HENSON, M.D., BY SUBSTITUTING THE FOLLOWING:**

It is hereby ORDERED, that:

- A. **REVOCATION, STAYED; SUSPENSION:** The certificate of Mark Owen Henson, M.D., to practice medicine and surgery in the State of Ohio shall be REVOKED; such revocation is STAYED, and Dr. Henson's certificate shall be SUSPENDED for an indefinite period of time but not less than nine months from the effective date of this Order.
  
- B. **INTERIM MONITORING:** During the period that Dr. Henson's certificate to practice in Ohio is suspended, he shall comply with the following terms, conditions, and limitations:

1. **Obey the Law**: Dr. Henson shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
2. **Quarterly Appearances and Quarterly Declarations**: Dr. Henson shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Order, or as otherwise requested by 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.

Dr. Henson 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 or before the first day of the third month following the month in which this Order becomes effective, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Sobriety**
  - a. **Abstinence from Drugs**: Dr. Henson 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 Dr. Henson's history of chemical dependency. Further, in the event that Dr. Henson is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Henson shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber, the name of the drug Dr. Henson received, the medical purpose for which he received the drug, the date the drug was initially received, and the dosage, amount, number of refills, and directions for use. Further, within 30 days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Henson shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.
  - b. **Abstinence from Alcohol**: Dr. Henson shall abstain completely from the use of alcohol.
4. **Drug & Alcohol Screens; Drug Testing Facility and Collection Site**
  - a. Dr. Henson shall submit to random urine screenings for drugs and alcohol

at least four times per month, or as otherwise directed by the Board.  
Dr. Henson 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, and shall include Dr. Henson's drug(s) of choice.

- b. Dr. Henson shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term "toxicology screen" is also used herein for "urine screen" and/or "drug screen.")

All specimens submitted by Dr. Henson shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Order.

Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Order.

- c. Dr. Henson shall abstain from the use of any substance that may produce a positive result on a toxicology screen, including the consumption of poppy seeds or other food or liquid that may produce a positive result on a toxicology screen.

Dr. Henson shall be held to an understanding and knowledge that the consumption or use of various substances, including but not limited to mouthwashes, hand-cleaning gels, and cough syrups, may cause a positive toxicology screen and that unintentional ingestion of a substance is not distinguishable from intentional ingestion on a toxicology screen, and that, therefore, consumption or use of substances that may produce a positive result in a toxicology screen is prohibited under this Order.

- d. All screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and a Board-approved collection site, except as provided in Paragraph 6 below ("Alternative Drug-testing and/or Collection Site"). Further, the screening process shall require a daily call-in procedure.
- e. Within 30 days of the effective date of this Order, Dr. Henson shall enter into the necessary financial and/or contractual arrangements with a Board-approved drug-testing facility and/or collection site ("DFCS") in order to facilitate the screening process in the manner required by this Order.

Further, within 30 days of making such arrangements, Dr. Henson shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Henson and the Board-approved DFCS. Dr. Henson's failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Order.

- f. Dr. Henson shall ensure that the urine-screening process performed through the Board-approved DFCS requires a daily call-in procedure, 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, Dr. Henson and the Board-approved DFCS shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- g. Dr. Henson shall ensure that the Board-approved DFCS provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order and whether all urine screens have been negative.
  - h. In the event that the Board-approved DFCS becomes unable or unwilling to serve as required by this Order, Dr. Henson must immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 6 below, as soon as practicable. Dr. Henson shall further ensure that the Board-approved DFCS also notifies the Board directly of its inability to continue to serve and the reasons therefor.
  - i. Dr. Henson acknowledges that the Board expressly reserves the right to withdraw its approval of any DFCS in the event that the Secretary and Supervising Member of the Board determine that the DFCS has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
5. **Alternative Drug-testing Facility and/or Collection Site:** It is the intent of this Order that Dr. Henson shall submit urine specimens to a Board-approved DFCS chosen by the Board. However, in the event that using the Board-approved DFCS creates an extraordinary hardship on Dr. Henson, as determined in the sole discretion of the Board, then, subject to the following requirements, the Board may approve an alternative DFCS or a supervising physician to facilitate the urine-screening process for Dr. Henson.

- a. Within 30 days of the date on which Dr. Henson is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Dr. Henson, he shall submit to the Board in writing for its prior approval the identity of either an alternative DFCS or the name of a proposed supervising physician to whom Dr. Henson shall submit the required urine specimens.

In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Henson's residence or employment location, or to a physician who practices in the same locale as Dr. Henson. Dr. Henson shall ensure that the urine-screening process performed through the alternative DFCS or supervising physician requires a daily call-in procedure, 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, Dr. Henson acknowledges that the alternative DFCS or supervising physician shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- b. Dr. Henson shall ensure that the alternative DFCS or supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- c. In the event that the designated alternative DFCS or the supervising physician becomes unable or unwilling to so serve, Dr. Henson must immediately notify the Board in writing. Dr. Henson shall further ensure that the previously designated alternative DFCS or the supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor. Further, in the event that the approved alternative DFCS or supervising physician becomes unable to serve, Dr. Henson shall, in order to ensure that there will be no interruption in his urine-screening process, immediately commence urine screening at the Board-approved DFCS chosen by the Board, until such time, if any, that the Board approves a different DFCS or supervising physician, if requested by Dr. Henson.
- d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Henson's designated alternative DFCS or any person proposed to serve as his supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board

determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

6. **Reports Regarding Drug & Alcohol Screens:** All screening reports required under this Order from the Board-approved DFCS, the alternative DFCS and/or supervising physician must be received in the Board's offices no later than the due date for Dr. Henson's quarterly declaration. It is Dr. Henson's responsibility to ensure that reports are timely submitted.
7. **Additional Screening without Prior Notice:** On the Board's request and without prior notice, Dr. Henson must provide a specimen of his blood, breath, saliva, urine, and/or hair for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Henson, or for any other purpose, at Dr. Henson's expense. Dr. Henson's refusal to submit a specimen on request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.
8. **Rehabilitation Program:** Dr. Henson shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or C.A., no less than three times per week, or as otherwise ordered by the Board. Substitution of any other specific program must receive prior Board approval. Dr. Henson shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Henson's quarterly declarations.
9. **Releases:** Dr. Henson 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 Dr. Henson's chemical dependency/abuse, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, 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. Dr. Henson further shall 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 Order.

10. **Absence from Ohio**: Dr. Henson shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the term of suspension, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
14. **Required Reporting of Change of Address**: Dr. Henson shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.

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

1. **Application for Reinstatement or Restoration**: Dr. Henson shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions**: Dr. Henson shall have maintained compliance with all the terms, conditions and limitations set forth in Paragraph B of this Order.
3. **Evidence of Unrestricted Licensure in Other States**: At the time he submits his application for reinstatement or restoration, Dr. Henson shall provide written documentation acceptable to the Board verifying that Dr. Henson otherwise holds a full and unrestricted license to practice in all other states in which he is licensed at the time of application or has been in the past licensed, or that he would be entitled to such license but for the nonpayment of renewal fees.
4. **Demonstration of Ability to Resume Practice**: Dr. Henson shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care. Such demonstration shall include but shall not be limited to the following:
  - a. Certification from a treatment provider approved under Section 4731.25, Ohio Revised Code, that Dr. Henson has successfully completed a minimum of twenty-eight days of inpatient/residential treatment for chemical dependency/abuse. Such treatment shall be completed without interruption. Further, such treatment shall be provided in accordance with Rule 4731-16, Ohio Administrative Code, by a treatment provider approved under Section

4731.25, Ohio Revised Code, who has access to Dr. Henson's treatment records and this Order.

- b. Evidence of continuing full compliance with an aftercare contract with a treatment provider approved under Section 4731.25, Ohio Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10, Ohio Administrative Code.
- c. Evidence of continuing full compliance with this Order.
- d. Two written reports indicating that Dr. Henson's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care, with respect to chemical dependence/abuse.

The reports shall have been made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Henson. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Henson shall provide the assessors with copies of patient records from any evaluation and/or treatment that he has received, and a copy of this Order. The reports of the assessors shall include any recommendations for treatment, monitoring, or supervision of Dr. Henson, and any conditions, restrictions, or limitations that should be imposed on Dr. Henson's practice. The reports shall also describe the basis for the assessor's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement or restoration. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

- 5. **Additional Evidence of Fitness To Resume Practice/SPEX**: In the event that Dr. Henson 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. Henson's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
1. **Obey the Law:** Dr. Henson shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
  2. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Henson shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
  3. **Practice Plan:** Prior to Dr. Henson's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Henson shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Henson's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Henson shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Dr. Henson submits his practice plan, he shall also 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 or Supervising Member will give preference to a physician who practices in the same locale as Dr. Henson and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Henson and his medical practice, and shall review Dr. Henson'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. Henson and his practice, and on the review of Dr. Henson's patient charts. Dr. Henson 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. Henson's quarterly declaration.

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

to the Board for another monitoring physician within 30 days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Henson 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 therefor.

4. **Tolling of Probationary Period while Out of Compliance:** In the event Dr. Henson 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.
- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Henson's certificate will be fully restored.
- F. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Henson violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.
- G. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER:**
  1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Henson shall provide a copy of this Order to all employers or entities with which he is under contract to provide health-care services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or health-care center where he has privileges or appointments.

In the event that Dr. Henson provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider, Dr. Henson shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

2. **Required Reporting To Other Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Henson shall provide a copy of this Order to the proper licensing authority of any State or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including

but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate.

Dr. Henson further shall provide a copy of this Order at the time of application to the proper licensing authority of any State or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Henson received from the Board written notification of the successful completion of the probation.

3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the effective date of this Order, Dr. Henson shall promptly provide a copy of this Order to all persons and entities that provide chemical-dependency treatment to or monitoring of Dr. Henson.
  
4. **Required Documentation of the Reporting Required by Paragraph G:** Dr. Henson shall provide the Board with one of the following documents as proof of each required notification within 30 days of the date of each such notification: (1) the return receipt of certified mail within 30 days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

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

**DR. MAHAJAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF MARK OWEN HENSON, M.D. DR. MAHAJAN SECONDED THE MOTION. A vote was taken:**

ROLL CALL:

Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Suppan	- aye
Mr. Jacobson	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- aye

The motion carried.

# State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.  
Executive Director

(614) 466-3934  
med.ohio.gov

August 13, 2008

Case number: 08-CRF-104

Mark Henson, M.D.  
114 South Street  
P.O. Box 401  
Leesburg, Ohio 45135

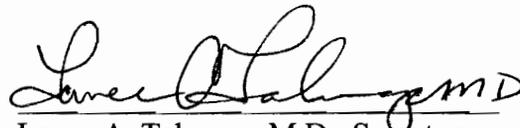
Dear Doctor Henson:

Enclosed please find certified copies of the Entry of Order, the Notice of Summary Suspension and Opportunity for Hearing, and an excerpt of the Minutes of the State Medical Board, meeting in regular session on August 13, 2008, including a Motion adopting the Order of Summary Suspension and issuing the Notice of Summary Suspension and Opportunity for Hearing.

You are advised that continued practice after receipt of this Order shall be considered practicing without a certificate, in violation of Section 4731.41, Ohio Revised Code.

Pursuant to Chapter 119, Ohio Revised Code, you are hereby advised that you are entitled to a hearing on the matters set forth in the Notice of Summary Suspension and Opportunity for Hearing. If you wish to request such hearing, that request must be made in writing and be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice. Further information concerning such hearing is contained within the Notice of Summary Suspension and Opportunity for Hearing.

THE STATE MEDICAL BOARD OF OHIO

  
Lance A. Talmage, M.D., Secretary

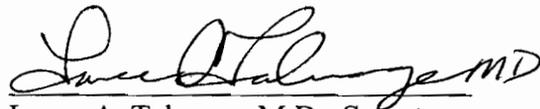
LAT/CDP/flb  
Enclosures

*Mailed 8-14-08*

**CERTIFICATION**

I hereby certify that the attached copies of the Entry of Order of the State Medical Board of Ohio and the Motion by the State Medical Board, meeting in regular session on August 13, 2008, to Adopt the Order of Summary Suspension and to Issue the Notice of Summary Suspension and Opportunity for Hearing, constitute true and complete copies of the Motion and Order in the Matter of Mark O. Henson, M.D., Case number: 08-CRF- 104 as they appear in the Journal of the State Medical Board of Ohio.

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

  
Lance A. Talmage, M.D., Secretary

(SEAL)

August 13, 2008

Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF :  
 :  
 MARK O. HENSON, M.D. :  
 :  
 CASE NUMBER: 08-CRF-104 :

**ENTRY OF ORDER**

This matter came on for consideration before the State Medical Board of Ohio the 13<sup>th</sup> day of August, 2008.

Pursuant to Section 4731.22(G), Ohio Revised Code, and pursuant to the contractual terms of the Step II Consent Agreement Between Mark Owen Henson, M.D., and the State Medical Board of Ohio, effective June 13, 2007, and upon recommendation of Lance A. Talmage, M.D., Secretary, and Raymond J. Albert, Supervising Member; and

Pursuant to their determination, based upon their review of the information supporting the allegations as set forth in the Notice of Summary Suspension and Opportunity for Hearing, that there is clear and convincing evidence that Mark O. Henson, M.D., has violated Sections 4731.22(B)(15) and 4731.22(B)(26), Ohio Revised Code, as alleged in the Notice of Summary Suspension and Opportunity for Hearing that is enclosed herewith and fully incorporated herein; and,

Pursuant to their further determination, based upon their review of the information supporting the allegations as set forth in the Notice of Summary Suspension and Opportunity for Hearing, that Dr. Henson's continued practice presents a danger of immediate and serious harm to the public;

The following Order is hereby entered on the Journal of the State Medical Board of Ohio for the 13<sup>th</sup> day of August, 2008:

It is hereby ORDERED that the certificate of Mark O. Henson, M.D., to practice medicine or surgery in the State of Ohio be summarily suspended.

It is hereby ORDERED that Mark O. Henson, M.D., shall immediately cease the practice of medicine and surgery in Ohio and immediately refer all active patients to other appropriate physicians.

This Order shall become effective immediately.

(SEAL)



Lance A. Talmage, M.D., Secretary

August 13, 2008

Date

# State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.  
Executive Director

(614) 466-3934  
med.ohio.gov



## EXCERPT FROM THE DRAFT MINUTES OF AUGUST 13, 2008

### MARK HENSON, M.D. – ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

At this time the Board read and considered the proposed Order of Summary Suspension and Notice of Opportunity For Hearing in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

**DR. STEINBERGH MOVED TO ENTER AN ORDER OF SUMMARY SUSPENSION IN THE MATTER OF MARK HENSON, M.D., IN ACCORDANCE WITH SECTION 4731.22(G), OHIO REVISED CODE, AND TO ISSUE THE NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Suppan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Varyani	- aye

The motion carried.



# State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.  
Executive Director

(614) 466-3934  
med.ohio.gov

## NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

August 13, 2008

Case number: 08-CRF- *104*

Mark Henson, M.D.  
114 South Street  
P.O. Box 401  
Leesburg, Ohio 45135

Dear Doctor Henson:

The Secretary and the Supervising Member of the State Medical Board of Ohio [Board] have determined that there is clear and convincing evidence that you have violated Sections 4731.22(B)(15) and 4731.22(B)(26), Ohio Revised Code, and have further determined that your continued practice presents a danger of immediate and serious harm to the public, as set forth in paragraphs (1) through (3), below.

Therefore, pursuant to Section 4731.22(G), Ohio Revised Code, and upon recommendation of Lance A. Talmage, M.D., Secretary, and Raymond J. Albert, Supervising Member, you are hereby notified that, as set forth in the attached Entry of Order, your certificate to practice medicine and surgery in the State of Ohio is summarily suspended. Accordingly, at this time, you are no longer authorized to practice medicine and surgery in Ohio.

Furthermore, in accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the 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) In or around December 2006, you entered into a Step I Consent Agreement with the Board [December 2006 Step I Consent Agreement] in lieu of formal proceedings based upon your violation of Section 4731.22(B)(26), Ohio Revised Code. In the December 2006 Step I Consent Agreement you admitted that you had relapsed on alcohol and that you were currently impaired in your ability to practice medicine

*Mailed 8-14-08*

and surgery due to the excessive use or abuse of alcohol. Further, in the December 2006 Step I Consent Agreement, you agreed to certain 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 90 days, with specified conditions for reinstatement.

- (2) On or about June 13, 2007, you entered into a Step II Consent Agreement with the Board [June 2007 Step II Consent Agreement], a copy of which is attached hereto and fully incorporated herein, and which provided for reinstatement of your license to practice medicine and surgery in the State of Ohio, subject to certain terms, conditions and limitations. To date, you remain subject to the June 2007 Step II Consent Agreement, which includes the following provision in Paragraph 8:

Dr. Henson 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 his history of chemical dependency.

Despite the aforementioned provision set forth in the June 2007 Step II Consent Agreement, the urine specimen you submitted on or about July 10, 2008, for drug screening tested positive for propoxyphene, and was GC/MS confirmed for the presence of propoxyphene. When informed of the test result by your supervising physician, you denied using propoxyphene. Following your denial to your supervising physician, the split sample of the urine specimen you submitted on or about July 10, 2008, was submitted for retesting. The split sample also tested positive for propoxyphene, and was GC/MS confirmed for the presence of propoxyphene.

Further, on or about August 5, 2008, you subsequently notified a representative of the Board that, in fact, you had taken Darvocet.

- (3) In the "Failure to Comply" provision of the June 2007 Step II Consent Agreement, you contractually agreed that, if the Secretary and Supervising Member of the Board determine that there is clear and convincing evidence that you have violated any term, condition or limitation of the agreement, such violation, as alleged, also constitutes clear and convincing evidence that your 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.

Further, Section 4731.22(B)(26), Ohio Revised Code, provides that if the Board determines that an individual's ability to practice is impaired, the Board shall suspend the individual's

certificate and shall require the individual, as a condition for continued, reinstated, or renewed certification to practice, to submit to treatment and, before being eligible to apply for reinstatement, to demonstrate to the Board the ability to resume practice in compliance with acceptable and prevailing standards of care, including completing required treatment, providing evidence of compliance with an aftercare contract or written consent agreement, and providing written reports indicating that the individual's ability to practice has been assessed by individuals or providers approved by the Board and that the individual has been found capable of practicing according to acceptable and prevailing standards of care.

Further, Rule 4731-16-02(B)(3), Ohio Administrative Code, provides that if an examination discloses impairment, or if the Board has other reliable, substantial and probative evidence demonstrating impairment, the Board shall initiate proceedings to suspend the licensee, and may issue an order of summary suspension as provided in Section 4731.22(G), Ohio Revised Code. Additionally, Rule 4731-16-02(B)(3), Ohio Administrative Code, further provides that an individual's relapse following treatment constitutes independent proof of impairment and shall support license suspension without the need for an examination.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) through (3) above, individually and/or collectively, constitute "[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.

Additionally, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute a "[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, and Chapter 4731., Ohio Revised Code, you are hereby advised that you are entitled to a hearing concerning these matters. 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.

Notice of Summary Suspension  
& Opportunity for Hearing  
Mark O. Henson, M.D.  
Page 4

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/CDP/flb  
Enclosures

CERTIFIED MAIL #91 7108 2133 3934 3688 1354  
RETURN RECEIPT REQUESTED

**STEP II  
CONSENT AGREEMENT  
BETWEEN  
MARK OWEN HENSON, M.D.  
AND  
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Henson enters into this Consent Agreement being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

**BASIS FOR ACTION**

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by Section 4731.22(B)(26), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for "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 Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26), Ohio Revised Code, as set forth in the Step I Consent Agreement Between Mark Owen Henson, M.D., and the State Medical Board of Ohio, effective December 13, 2006 [December 2006 Step I Consent Agreement], a copy of which is attached hereto and incorporated herein, and as set forth in Paragraphs E through H below. The Board expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement.
- C. Dr. Henson is applying for reinstatement of his certificate to practice medicine and surgery in the State of Ohio, License #35.076766, which was suspended pursuant to the aforementioned December 2006 Step I Consent Agreement.

**OHIO STATE MEDICAL BOARD**

JUN 05 2007



- D. Dr. Henson states that he is not licensed to practice medicine and surgery in any other state or jurisdiction.
- E. Dr. Henson admits that, following his relapse on alcohol during or about April 2006 and his self-report to the Board on or about December 12, 2006, and after entering residential treatment for chemical dependency at The Woods at Parkside [Parkside], a Board-approved treatment provider, on or about December 14, 2006, he was discharged, treatment complete, on or about January 12, 2007. Dr. Henson states that, prior to entering Parkside, he had entered an intensive out-patient treatment program run by Family Recovery Services in Highland County, Ohio, but left this program upon learning of the requirement to complete treatment at a Board-approved treatment facility. Dr. Henson states, and the Board acknowledges receipt of information to support, that following his discharge from Parkside, he resumed out-patient treatment at Family Recovery Services, completing said program in or around February 2007, and immediately entered a follow-up out-patient program, Relapse Action Plan, completing treatment in or around April 2007.
- F. Dr. Henson states, and the Board acknowledges receipt of information to support, that he is in compliance with the aftercare contract that he entered into with Parkside on or about April 26, 2007. Dr. Henson admits that such aftercare contract remains in effect to date.
- G. Dr. Henson states, and the Board acknowledges receipt of information to support, that Harry P. Nguyen, M.D., Medical Director of Parkside, provided a written report indicating that Dr. Henson's ability to practice has been assessed and that he has been found capable of practicing medicine according to acceptable and prevailing standards of care, so long as he follows all of his consent agreements and his continuing care contracts. Dr. Henson states, and the Board acknowledges receipt of information to support, that Edna M. Jones, M.D., a physician certified in addiction medicine who has been approved by the Board to provide an assessment of Dr. Henson, provided a written report indicating that Dr. Henson's ability to practice has been assessed and that he has been found capable of practicing medicine according to acceptable and prevailing standards of care, so long as certain treatment and monitoring requirements are in place, including that he continue with psychiatric medical management regarding his history of depression. Dr. Henson admits, and the Board acknowledges information to support, that although Dr. Henson was assigned the diagnosis of Bipolar Disorder during his treatment at Parkside, Dr. Jones has opined that such diagnosis is not definitive at this time.
- H. Dr. Henson states, and the Board acknowledges receipt of information to support, that Dr. Henson has substantially fulfilled the conditions for reinstatement of his certificate to practice medicine and surgery in the State of Ohio, as established in the above-referenced December 2006 Step I Consent Agreement between Dr. Henson and the Board.

### 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 Dr. Henson to practice medicine and surgery in the State of Ohio shall be reinstated, and Dr. Henson knowingly and voluntarily agrees with the Board to the following PROBATIONARY terms, conditions and limitations:

1. Dr. Henson shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
2. Dr Henson 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 Consent Agreement. 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 December 2006 Step I 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.
3. Dr. Henson 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 December 2006 Step I 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.
4. Dr. Henson shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
5. In the event Dr. Henson 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 this Consent Agreement.

## **MONITORING OF REHABILITATION AND TREATMENT**

### **Drug Associated Restrictions**

6. Dr. Henson shall keep a log of all controlled substances prescribed. Such log shall be submitted, in the format approved by the Board, thirty days prior to Dr. Henson's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Henson shall make his patient records with regard to such prescribing available for review by an agent of the Board upon request.
7. Dr. Henson 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 Dr. Henson to administer or personally furnish controlled substances, Dr. Henson 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 days prior to Dr. Henson's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Henson 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.

### **Sobriety**

8. Dr. Henson 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 Dr. Henson's history of chemical dependency.
9. Dr. Henson shall abstain completely from the use of alcohol.

### **Drug and Alcohol Screens/Supervising Physician**

10. Dr. Henson shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Henson 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.

Dr. Henson shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

Dr. Henson and the Board agree that the person or entity previously approved by the Board to serve as Dr. Henson's supervising physician pursuant to the December 2006 Step I Consent Agreement is hereby approved to continue as Dr. Henson's designated supervising physician under this Consent Agreement,

unless within thirty days of the effective date of this Consent Agreement, Dr. Henson submits to the Board for its prior approval the name and curriculum vitae of an alternative supervising physician to whom Dr. Henson 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 Dr. Henson. Dr. Henson 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.

The Board expressly reserves the right to disapprove any person or entity proposed to serve as Dr. Henson's designated supervising physician, or to withdraw approval of any person or entity previously approved to serve as Dr. Henson's designated supervising physician, in the event that the Secretary and Supervising Member of the Board determine that any such supervising physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

Dr. Henson 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 Consent Agreement, 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. Henson must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Henson 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. Henson's quarterly declaration. It is Dr. Henson's responsibility to ensure that reports are timely submitted.

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

### **Psychiatric Treatment**

12. Within thirty days of the effective date of this Consent Agreement, Dr. Henson 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. Henson shall undergo and continue psychiatric treatment monthly or as otherwise directed by the Board. Dr. Henson shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered for his psychiatric disorder. Dr. Henson 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. Henson's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Henson's compliance with his treatment plan; Dr. Henson's mental status; Dr. Henson's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Henson 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 Dr. Henson is unable to practice due to his psychiatric disorder. It is Dr. Henson's responsibility to ensure that quarterly reports are received in the Board's offices no later than the due date for Dr. Henson's quarterly declaration.

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

### **Monitoring Physician**

13. Before engaging in any medical practice, Dr. Henson 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. Henson and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Henson and his medical practice, and shall review Dr. Henson'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. Henson and his medical practice, and on the review of Dr. Henson's patient charts. Dr. Henson 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. Henson's quarterly declaration.

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

### **Rehabilitation Program**

14. Dr. Henson shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.

Dr. Henson shall submit acceptable documentary evidence of continuing compliance with this program which must be received in the Board's offices no later than the due date for Dr. Henson's quarterly declarations.

### **Aftercare**

15. Dr. Henson shall contact an appropriate impaired physicians committee, approved by the Board, to arrange for assistance in recovery or aftercare.
16. Dr. Henson shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided that, where terms of the aftercare contract conflict with terms of this Consent Agreement, the terms of this Consent Agreement shall control.

### **Releases**

17. Dr. Henson 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 Dr. Henson's chemical dependency, psychiatric condition or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. The above-mentioned

evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Henson 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.

### **Required Reporting by Licensee**

18. Within thirty days of the effective date of this Consent Agreement, Dr. Henson 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, Dr. Henson 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.
19. Within thirty days of the effective date of this Consent Agreement, Dr. Henson 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. Dr. Henson further agrees to provide a copy of this Consent Agreement by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which he applies for any professional license or for reinstatement of any professional license. Further, Dr. Henson shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
20. Dr. Henson shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Henson chemical dependency treatment or monitoring, and/or psychiatric treatment or monitoring.

### **FAILURE TO COMPLY**

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Henson 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 Dr. Henson has violated any term, condition or limitation of this Consent Agreement, Dr. Henson 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

Dr. Henson shall not request termination of this Consent Agreement for a minimum of five years. In addition, Dr. Henson shall not request modification to the probationary terms, limitations, and conditions contained herein for at least one 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

Dr. Henson acknowledges that he has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

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

Dr. Henson hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Dr. Henson acknowledges that his social security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

### EFFECTIVE DATE

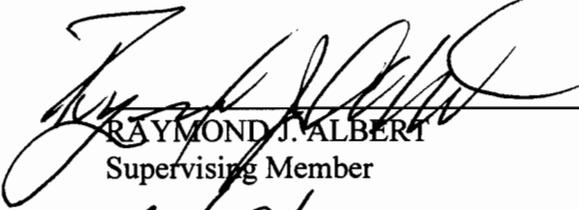
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

  
\_\_\_\_\_  
MARK OWEN HENSON, M.D.

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

6-4-07  
\_\_\_\_\_  
DATE

6-13-07  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
RAYMOND J. ALBERT  
Supervising Member  
6/13/07  
\_\_\_\_\_  
DATE

  
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CHERYL D. POKORNY  
Enforcement Attorney  
June 6, 2007  
\_\_\_\_\_  
DATE

**STEP I**  
**CONSENT AGREEMENT**  
**BETWEEN**  
**MARK OWEN HENSON, M.D.,**  
**AND**  
**THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Henson enters into this Consent Agreement being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

**BASIS FOR ACTION**

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by Section 4731.22(B)(26), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for “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 Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26), Ohio Revised Code, as set forth in Paragraphs E and F below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement. Such express reservation includes, but is not limited to, the right to institute formal proceedings based upon any violations related to patient care, regardless of whether the acts underlying such additional violations are related to the violation of Section 4731.22(B)(26), Ohio Revised Code, as set forth herein.
- C. Dr. Henson is licensed to practice medicine and surgery in the State of Ohio, License # 35.076766.
- D. Dr. Henson states that he is not licensed to practice medicine and surgery in any other state or jurisdiction.

- E. Dr. Henson admits that on or about December 12, 2006, he voluntarily self-reported to the Board that he had relapsed on alcohol during or about April 2006. Dr. Henson further admits that during or about the mid 1980's, prior to the time he was initially licensed to practice medicine and surgery in Ohio during or about September 1999, he received treatment for chemical dependency related to drugs and alcohol. Dr. Henson attests that following such treatment, he maintained uninterrupted sobriety until the aforementioned relapse during or about April 2006, at which time he began to intermittently consume beer approximately twice per week, consuming up to six beers at each drinking episode. Dr. Henson specifically denies that his relapse involved the use of any other substances of abuse other than alcohol.
- F. Dr. Henson admits that he is currently impaired in his ability to practice medicine and surgery according to acceptable and prevailing standards of care due to the habitual or excessive use or abuse of alcohol. Dr. Henson asserts that he has voluntarily ceased practice at this time, that he is actively engaged in the process of contacting Board-approved treatment providers regarding admission, and that he anticipates entering a Board-approved treatment provider for a minimum of twenty-eight days of inpatient or residential treatment in the immediate future.

### **AGREED CONDITIONS**

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, Dr. Henson knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

#### **SUSPENSION OF CERTIFICATE**

1. The certificate of Dr. Henson to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time, but not less than 90 days.

#### **Sobriety**

2. Dr. Henson 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 Dr. Henson's history of chemical dependency.
3. Dr. Henson shall abstain completely from the use of alcohol.

#### **Releases; Quarterly Declarations and Appearances**

4. Dr. Henson 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 Dr. Henson's chemical dependency or

related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Henson 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. Dr. Henson 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 Consent Agreement. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Consent Agreement becomes effective, provided that if the effective date is on or after the sixteenth 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. Dr. Henson shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Consent Agreement. 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.

#### Drug & Alcohol Screens; Supervising Physician

7. Dr. Henson shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Henson 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.

Dr. Henson shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

Within thirty days of the effective date of this Consent Agreement, Dr. Henson shall submit to the Board for its prior approval the name of a supervising physician to whom Dr. Henson 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 Dr. Henson. Dr. Henson 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. Henson 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 Consent Agreement, 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. Henson must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Henson 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. Henson's quarterly declaration. It is Dr. Henson's responsibility to ensure that reports are timely submitted.

8. The Board retains the right to require, and Dr. Henson agrees to submit, blood or urine specimens for analysis at Dr. Henson's expense upon the Board's request and without prior notice.

#### Rehabilitation Program

9. Within thirty days of the effective date of this Consent Agreement, Dr. Henson shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.

Dr. Henson shall submit acceptable documentary evidence of continuing compliance with this program which must be received in the Board's offices no later than the due date for Dr. Henson's quarterly declarations.

#### **CONDITIONS FOR REINSTATEMENT**

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

- b. Dr. Henson 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 Dr. Henson has successfully completed any required inpatient treatment, including at least twenty-eight days of inpatient or residential treatment for chemical dependence, as set forth in Rules 4731-16-02(B)(4) and 4731-16-08(A)(13), Ohio Administrative Code.
  - ii. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
  - iii. Evidence of continuing full compliance with this Consent Agreement.
  - iv. Two written reports indicating that Dr. Henson'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 physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Henson. Prior to the assessments, Dr. Henson shall provide the evaluators with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Consent Agreement. The reports from the evaluators shall include any recommendations for treatment, monitoring, or supervision of Dr. Henson, and any conditions, restrictions, or limitations that should be imposed on Dr. Henson's practice. The reports shall also describe the basis for the evaluator's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement.
- c. Dr. Henson shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board or, if the Board and Dr. Henson are unable to agree on the terms of a written Consent Agreement, then Dr. Henson 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 Dr. Henson'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. Moreover, upon termination of the consent agreement or Board Order, Dr. Henson shall submit to the Board for at least two years annual progress reports made under penalty of Board disciplinary action or criminal prosecution stating whether Dr. Henson has maintained sobriety.

11. In the event that Dr. Henson 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 Dr. Henson's fitness to resume practice.

#### **REQUIRED REPORTING BY LICENSEE**

12. Within thirty days of the effective date of this Consent Agreement, Dr. Henson 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, Dr. Henson 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.
13. Within thirty days of the effective date of this Consent Agreement, Dr. Henson 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. Dr. Henson 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, Dr. Henson shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
14. Dr. Henson shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Henson chemical dependency treatment or monitoring.

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

**ACKNOWLEDGMENTS/LIABILITY RELEASE**

Dr. Henson acknowledges that he has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

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

Dr. Henson hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Dr. Henson acknowledges that his social security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

**EFFECTIVE DATE**

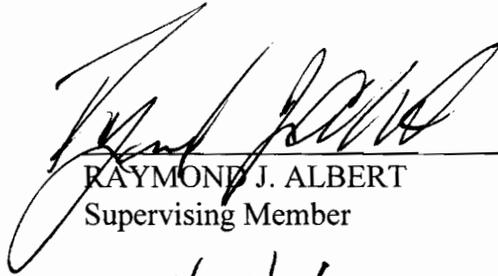
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

Mark O. Henson M.D.  
MARK OWEN HENSON, M.D.

Lance A. Talmage MD  
LANCE A. TALMAGE, M.D.  
Secretary

12/13/06  
DATE

12-13-06  
DATE

  
\_\_\_\_\_  
RAYMOND J. ALBERT  
Supervising Member  
12/13/06  
\_\_\_\_\_  
DATE

  
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REBECCA J. MARSHALL  
Chief Enforcement Attorney  
12/13/06  
\_\_\_\_\_  
DATE