



State Medical Board of Ohio

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

March 8, 2006

Handel Jay Roberts, M.D.
138 Holly Path, Lot 12
Windber, PA 15963-6253

Dear Doctor Roberts:

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 March 8, 2006, 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. 7003 0500 0002 4329 7947
RETURN RECEIPT REQUESTED

Cc: Mitchell A. Machan, Esq.
CERTIFIED MAIL NO. 7003 0500 0002 4329 7978
RETURN RECEIPT REQUESTED

Mailed 3-23-06

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 March 8, 2006, 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 Handel Jay Roberts, M.D., as it appears in the Journal of the State Medical Board of Ohio.

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



Lance A. Talmage, M.D.
Secretary

(SEAL)

March 8, 2006

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

HANDEL JAY ROBERTS, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on March 8, 2006.

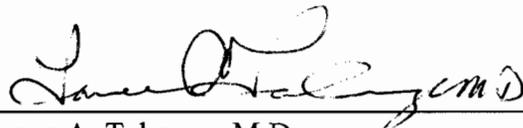
Upon the Report and Recommendation of Patricia A. Davidson, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the modification, approval and confirmation 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:

The certificate of Handel Jay Roberts, M.D., to practice medicine and surgery in the State of Ohio is REVOKED.

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

(SEAL)



Lance A. Talmage, M.D.
Secretary

March 8, 2006

Date

2006 FEB -3 P 12: 06

**REPORT AND RECOMMENDATION
IN THE MATTER OF HANDEL JAY ROBERTS, M.D.**

The Matter of Handel Jay Roberts, M.D., was heard by Patricia A. Davidson, Hearing Examiner for the State Medical Board of Ohio, on January 5, 2006.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated February 9, 2005, the State Medical Board of Ohio [Board] notified Handel Jay Roberts, M.D., of proposed disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board's action was based on allegations that Dr. Roberts had violated his consent agreement with the Board, thus constituting a "[v]iolation of the conditions of limitation placed by the board upon a certificate to practice," as that clause is used in Ohio Revised Code Section [R.C.] 4731.22(B)(15). Accordingly, the Board advised Dr. Roberts of his right to request a hearing in this matter. (State's Exhibit 1A)
- B. On April 4, 2005, upon remailing of the notice of opportunity for hearing, the Board obtained service of the notice on Dr. Roberts. On April 15, 2005, the Board received Dr. Roberts' letter requesting a hearing. (State's Exhibits 1A, 1C)

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Kyle C. Wilcox, Assistant Attorney General.
- B. On behalf of the Respondent: Mitchell A. Machan, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

- A. Presented by the State
 - 1. Handel Jay Roberts, M.D., as on cross-examination
 - 2. Danielle Bickers
 - 3. Peter J. Vitucci
- B. Presented by the Respondent
 - Handel Jay Roberts, M.D.

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A through 1P: Procedural exhibits.
2. State's Exhibit 2: Certified copies of documents maintained by the Board in *Matter of Handel Jay Roberts, M.D.*
3. State's Exhibit 3: Copy of letter dated May 23, 2003, from Dr. Roberts to Danielle Bickers, Compliance Officer.

B. Presented by the Respondent

Respondent's Exhibit A: Letter dated April 26, 2002, from the Board to Dr. Roberts.

C. Board Exhibits (Admitted by the Hearing Examiner post hearing)

1. Board Exhibit A: Certified copies of excerpts from the minutes of the Board's meetings in April 2002, June 2002, and July 2002. (See Procedural Matter, below.)
2. Board Exhibit B: Transcript of excluded testimony, not admitted. (See Proffered Materials, below.)

PROFFERED MATERIALS

At the hearing, the issue arose as to whether the Board had intended to allege that Dr. Roberts violated his Consent Agreement by refusing to accept delivery of a packet in February 2004. The State clarified that it was not alleging that Dr. Roberts' refusal to accept the delivery had constituted a violation of his Consent Agreement but that the particular mode of refusing the delivery was relevant to the question of Dr. Roberts' cooperativeness with the Board in general. (Tr. at 62-63) The Hearing Examiner, balancing the limited relevance against the potential for undue prejudice, excluded a portion of the testimony of Dr. Roberts and Peter J. Vitucci regarding the event. The excluded testimony was proffered, and the proffer was provided in a separately bound transcript, which the Hearing Examiner marked as Board Exhibit B post hearing for identification purposes.

Proffered exhibits are not considered by the Hearing Examiner in preparing a Report and Recommendation nor by Members of the Board in making a final decision in a matter. Should the Board choose to do so, however, the Board may vote to overrule the decision of the Hearing Examiner, and admit any proffered exhibit into evidence.

PROCEDURAL MATTER

Following the hearing, the Hearing Examiner inquired via telephone conference with counsel as to whether either would object to admission of a Board Exhibit consisting of excerpts from minutes of Board meetings that were referenced at the hearing. Neither the State nor the Respondent objected. At the Hearing Examiner's request and pursuant to agreement of counsel, the State submitted

certified copies of excerpts from the minutes of three Board meetings. On January 31, 2006, the Hearing Examiner admitted Board Exhibit A and reclosed the record.

SUMMARY OF THE EVIDENCE

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

Background

1. Handel Jay Roberts, M.D., testified that he had received his bachelor's degree from the University of Pittsburgh in 1992, having completed the work "a couple of years earlier." He stated that, after graduating from Ross University School of Medicine in 1994, he participated in a transitional residency for one year at Altman Hospital in Canton, Ohio, and then completed three years of residency in internal medicine at the Canton Medical Education Foundation in 1999. (Hearing Transcript [Tr.] at 17-19)

Dr. Roberts testified that he looked for a job and "eventually got a place in Salem, Ohio, and then later in Toledo briefly, just for a few months." Dr. Roberts explained that he was employed in private practice, internal medicine, for only a "few months" before his certificate was suspended by the Board in 2000. Dr. Roberts' certificate remains suspended, and he testified that he is employed by Papa John's Pizza in Canton, Ohio. (Tr. at 16-20, 69)

Chemical Dependence & Criminal Proceedings in 2000

2. Dr. Roberts has admitted the following:
 - a. He began using hydrocodone in 1997. By May 26, 2000, his hydrocodone use had progressed to approximately 300 milliliters of Vicodin Tuss daily, and he required detoxification.
 - b. From May 26 to June 22, 2000, he received inpatient treatment for opioid dependence at St. Thomas Hospital, a board-approved treatment facility in Akron, Ohio.
 - c. On September 20, 2000, Dr. Roberts pleaded guilty in Stark County Common Pleas Court to eight felony counts of illegal processing of drug documents in violation of R.C. 2925.23. These counts were based on his issuance of prescriptions from January to May 2000 for Oxycodone, Hydrocodone, and Vicodin. In these prescriptions, he had listed the names of others although the drugs were for his own use in whole or in part, or he had written prescriptions for himself using the name of another physician as the prescribing physician.
 - d. Dr. Roberts relapsed on hydrocodone on or about September 18, 2000, ingesting approximately 3 hydrocodone tablets. On September 20, 2000, the day he pleaded guilty to the felony counts in Stark County, Dr. Roberts provided to the Stark County Adult Parole Authority a urine specimen that tested positive for opiates.

- e. The Stark County Common Pleas Court granted Dr. Roberts' request under R.C. 2951.041 for intervention in lieu of conviction on eight felony counts to which he had pleaded guilty. The court, in granting intervention in lieu of conviction on September 20, 2000, stated that Dr. Roberts' drug dependence was a factor leading to his criminal activity.

(Step I Consent Agreement [Consent Agr.], attached to the Notice of Immediate Suspension and Opportunity for Hearing dated October 11, 2000, which is part of State's Exhibit [St. Ex.] 2)

Notice of Immediate Suspension in October 2000, Followed by Consent Agreement

3. On October 11, 2000, the Board issued to Dr. Roberts a Notice of Immediate Suspension and Opportunity for Hearing [Suspension Notice], informing him that his certificate to practice medicine had been immediately suspended due to a report from the Office of the Prosecuting Attorney of Stark County, Ohio, which had stated that the Stark County Common Pleas Court had found Dr. Roberts eligible for intervention in lieu of conviction for the illegal processing of drug documents. The Board notified Dr. Roberts of proposed disciplinary action based on his guilty plea to eight felonies, the conduct underlying his plea, and the court's finding of drug dependence. The Board alleged that Dr. Roberts had violated four provisions in R.C. 4731.22(B). (St. Ex. 2)
4. On December 13, 2000, Dr. Roberts entered into a Step I Consent Agreement [Consent Agreement] with the Board, in which he agreed to various terms, conditions and limitations in lieu of formal proceedings based on multiple violations of Ohio law. First, Dr. Roberts admitted all the factual and legal allegations set forth in the Suspension Notice of October 2000. Thus, he admitted violations of R.C. 4731.22(B)(9), R.C. 4731.22(B)(3), and R.C. 4731.22(B)(26). In addition, he admitted a violation of R.C. 4731.22(B)(20) predicated on violation of Rule 4731-11-08, Ohio Administrative Code. (Consent Agr. at 1-2, 9)

Second, Dr. Roberts agreed to the indefinite suspension of his certificate to practice medicine. He also agreed that he "shall appear in person for quarterly interviews before the Board or its designated representative, or as otherwise directed by the Board." (Consent Agr. at 1-4)

Further, Dr. Roberts agreed to abstain completely from alcohol and to abstain completely from using or possessing drugs except those provided under specifically restricted circumstances. To monitor his compliance, the Board required that Dr. Roberts "shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board." Dr. Roberts further agreed that he "shall ensure that all screening reports are forwarded directly to the Board" and that "the drug testing panel utilized must be acceptable" to the Board. (Consent Agr. at 3-5)

In addition, Dr. Roberts agreed to submit for the Board's prior approval the name of a supervising physician to whom he would submit the weekly urine specimens and who would supervise the urine screens, including verification that all the urine screens were conducted in compliance with the Board's requirements. Dr. Roberts also agreed that, "In the event that the

designated supervising physician becomes unable or unwilling to so serve, Doctor Roberts must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable.” Moreover, with respect to the reports regarding drug testing, Dr. Roberts acknowledged that he understood that it was his “responsibility to ensure that reports are timely submitted.” (Consent Agr. at 4-5)

In addition, the Consent Agreement set forth terms and conditions under which Dr. Roberts’ certificate could be reinstated. For example, one of the conditions was that Dr. Roberts must submit two written reports indicating that his “ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care.” The Consent Agreement required that these two reports “shall be made by individuals or providers approved by the Board for making such assessments * * *.” (Consent Agr. at 6)

Events Following the Consent Agreement

5. Dr. Roberts completed a 28-day inpatient treatment at Maryhaven followed by an aftercare contract, according to his testimony. In addition, he entered into an advocacy contract with the Ohio Physicians Effectiveness Program [OPEP]. Further, Dr. Roberts worked with the Board’s Compliance Officer, Danielle Bickers, regarding his compliance with the Consent Agreement. (Tr. at 25-27, 37, 47, 78)
6. According to Ms. Bickers, Dr. Roberts began reporting problems with compliance as early as March 2001, his first quarter for reporting under the Consent Agreement. Ms. Bickers testified that Dr. Roberts had “had a difficult time getting the urine screens set up according to the terms of the consent agreement.” The problem was that he had been “getting urine screens done by the Stark County Parole Authority, but the urine screens did not meet the requirements set out by OPEP nor the Board, and Dr. Roberts was having a hard time getting those screens done appropriately.” Ms. Bickers explained that the drug screens had not been done in compliance with the Consent Agreement because the specimens had not been tested “for the full panel” that had been established for Dr. Roberts. In addition, OPEP had difficulty because the test results were not confirmable by GC/MS procedures, which OPEP needed. (Tr. at 46-47)

In addition, Ms. Bickers testified that Dr. Roberts had not done the urine tests on a weekly basis as required. Dr. Roberts had relied on the Stark County Parole Authority for drug-testing, but that office was not testing its probationers on a regular basis as part of its normal procedures, and Dr. Roberts did not otherwise obtain weekly drug screens. Then, in September 2001, the probation office discontinued Dr. Roberts’ drug-testing completely, and it was months before Dr. Roberts arranged for a new supervising physician for his drug screens. In addition, Ms. Bickers testified that Dr. Roberts had “times that he was not in compliance with the frequency of AA meetings.”¹ (Tr. at 47-48, 51-52, 83-84)

¹The Consent Agreement does not require AA attendance. However, under Rule 4731-16-10, Ohio Administrative Code, a required component of all aftercare contracts is mandatory participation in Alcoholics Anonymous, Narcotics Anonymous, or an equivalent program.

7. The Board's minutes for its meeting on April 10, 2002, reflect that Dr. Roberts asked the Board to approve Donald J. Fairbanks, M.D., to replace OPEP as the supervising physician for his urine screens. The minutes shows that the Board approved his request. (Board Exhibit [Bd. Ex] A)
8. Dr. Roberts testified that he had satisfied all the conditions for reinstatement, and he emphasized what he viewed as unreasonable lack of cooperation from the Board in processing his reinstatement. However, although Dr. Roberts made numerous allegations of bad faith, he did not support these allegations with corroborative evidence. For example, Dr. Roberts asserted that he had obtained a medical assessment from "Toledo Hospital" that would have supported reinstatement except that it had lacked "a conclusion." Dr. Roberts claimed that, after he had made repeated calls to Toledo Hospital, "they" had finally told him that they had spoken with a Board staff member who had "told them not to do it." However, Dr. Roberts produced no witness, affidavit, or statement from anyone at Toledo Hospital to corroborate his assertions. (Tr. at 27-37, 78-91)

Dr. Roberts testified about various medical assessments that he had submitted, or tried to submit, to support reinstatement. However, at the hearing, he did not present copies of these assessments nor produce corroborative witnesses. (Tr. at 3-5, 27-37, 86-89)

9. Nonetheless, it appears that at least one medical report was submitted to the Board in 2002, although no copy was placed into evidence. In a letter to Dr. Roberts dated April 26, 2002, Barbara Rogers [now Jacobs], the Board's Public Services Administrator, noted receipt of an assessment, and she explained to Dr. Roberts the procedures by which his license could be reinstated:

This letter will acknowledge receipt of a letter dated April 19, 2002, from Donald J. Fairbanks, M.D., assessing your ability to return to the practice of medicine. It appears from Dr. Fairbanks' letter that you may be anticipating applying for the reinstatement of your license to practice medicine. If you wish to pursue the requirements for reinstatement, you will need to provide the following:

- 1. Submit an application for reinstatement, accompanied by appropriate fees, if any.** Your license was set to expire on April 1, 2002, [and] therefore you will need to submit a renewal card and standard fee of \$305. Enclosed is the renewal card that you will need to complete and return to my attention.
- 2. Certification from a treatment provider that you have successfully completed any required inpatient treatment.** It is my understanding that you entered treatment at Maryhaven. We will need a letter from the medical director of Maryhaven stating that you successfully completed the required inpatient treatment. We will also need a copy of the discharge summary from Maryhaven; it will expedite the completion of the Step II Consent Agreement process if you would arrange for its release to the Board now.

3. Evidence of continuing compliance with an aftercare contract and consent agreement. We will need a copy of your aftercare contract with Maryhaven, and a written statement from the medical director at Maryhaven indicating whether you have maintained continued compliance with that aftercare contract. It would also be of assistance if you would provide a copy of your continuing care contract with the Ohio Physicians Effectiveness Program.

4. Evidence of continuing compliance with your Consent Agreement. Ms. Bickers monitors your continuing compliance with the Step I Consent Agreement. As long as you provide the above documents and remain in compliance, this condition will have been fulfilled.

5. Two written reports indicating that your ability to practice has been assessed and that you have been found capable of practicing according to acceptable and prevailing standards of care. The reports must be made by persons approved by the Board for making such assessments and must describe the basis for the determination. We have received a letter from Dr. Donald Fairbanks concerning your ability to practice medicine according to acceptable and prevailing standards of care. However, Dr. Fairbanks is not the medical director of an approved treatment provider. Therefore, you will need to submit a request to the State Medical Board to have Dr. Fairbanks approved to do the assessment. Along with your request, you will need to submit a copy of Dr. Fairbanks' curriculum vitae. If the Board approves Dr. Fairbanks to do the assessment, you will be notified in writing.

You will also need to submit a second assessment by a physician. If you obtain an assessment from a medical director of an approved treatment provider, it will not be necessary for you to obtain separate Board approval prior to being assessed. Approved treatment providers are generally familiar with the Board's requirements for performing and reporting on assessments for purposes of reinstatements; a list of approved treatment providers is available on the Board's website at www.state.oh.us/med; click on "Approved Treatment Providers" under the heading "About the Board."

Please note that these reports must be based on an assessment performed not more than three months prior to your reinstatement.

Once I have received the required written documentation, I will forward your file to the enforcement section for assignment to an enforcement coordinator. The enforcement coordinator will be responsible for drafting the Step II Consent Agreement and submitting it to the Board for ratification following your acceptance of it. Once the Board has ratified the agreement and the agreement is

fully signed, your license will be reinstated, subject to probationary terms and conditions.

If you have any questions in this matter, please don't hesitate to contact me.

(Respondent's Exhibit A)

10. The Board's minutes for its meeting on June 12, 2002, reflect that the Board voted to disapprove Dr. Fairbanks as an assessor for Dr. Roberts. The reason for this decision was that Dr. Fairbank's curriculum vitae did not "show that Dr. Fairbanks has any background in addictionology or impairment." (Bd. Ex. A)
11. The Board's minutes for its meeting on July 10, 2002, reflect that the Board voted to disapprove Lewis A. Humble, M.D., as a reinstatement assessor under the Consent Agreement. The reason was that Dr. Humble "does not appear to have any education or training in addiction medicine." The Board voted to require Dr. Roberts to nominate persons "with a background in addiction medicine as his assessors." (Bd. Ex. A)
12. Dr. Roberts claimed that, until May 23, 2003, he was in complete compliance with the Consent Agreement except for a "very brief period" when the Stark County probation office discontinued urine testing, when it took him "a little while to get somebody to act as my monitoring physician." However, he also testified that, when his probation office discontinued drug screens in September 2001, he had only "some screens" done after that and that "no one" was serving as his supervising physician for drug testing until Dr. Fairbanks was approved, which took place in April 2002. (Tr. at 26-28, 69-70, 83-84, 86; Bd. Ex. A)

Dr. Roberts also stated that, by May 23, 2003, he had made six attempts to submit medical assessments for reinstatement. He felt that he had met the reinstatement requirements "over and over again," and he could see no reason why the Board had not reinstated his license. He believed it was evident by May 23, 2003, that the Board "had no intention" of reinstating his license according to the Consent Agreement. In addition, Dr. Roberts testified that Dr. Fairbanks had moved away from Ohio, which meant that he did not have a supervising physician and must find a new one, which he had not been able to do. Further, Dr. Roberts explained that he had been hampered by the fact that his car had been demolished in an accident and that he had obtained another car that broke down frequently, making transportation difficult. Dr. Roberts indicated in essence that compliance with the Consent Agreement had become too difficult and too frustrating for him to continue. He explained that, "when they were rejecting these evaluations that I then resubmitted again from different providers, I took that as sort of an implied statement that they were not going to reinstate." However, Dr. Roberts stated that no one at the Board had ever told him that he could not be reinstated. (Tr. at 28-37, 70-82)

Dr. Roberts' Letter of May 23, 2003

13. By letter dated May 23, 2003, Dr. Roberts informed the Board that he was ceasing compliance with the Consent Agreement:

As you know, my monitoring physician, Donald J. Fairbanks MD, has relocated to the state of Utah. His replacement at Dunlap Family Physicians is not scheduled to arrive until August of this year. I have been told that he may be willing to function as my monitoring physician in place of Dr. Fairbanks.

At this time, I request the withdrawal of my application for the reinstatement of my Medical License and the return of my \$305 fee.

For financial reasons, I can no longer make Quarterly Appearances in Columbus or continue with the Step I agreement.

At my last Quarterly Appearance, Board representatives would not discuss anything with me without an attorney present to represent me. Eric Plinke no longer represents me (if he ever really did). I can not afford to retain counsel at this time. When I can, I will notify you.

If I choose to reinstate my license at a later date I will notify you.

(St. Ex. 3)

14. After May 23, 2003, Dr. Roberts stopped complying with material provisions of the Consent Agreement. For example, he no longer provided results of urine tests or attended quarterly meetings with the Board's representative. However, he asserted that he had refrained from the use of alcohol and drugs and refrained from practicing medicine. (Tr. at 45-46, 50, 69-70)
15. In early 2004, the Board attempted by various means to deliver a proposed agreement to Dr. Roberts that provided for a permanent surrender of his Ohio certificate, but Dr. Roberts declined to accept delivery. (Tr. at 38-42, 58-59)

FINDINGS OF FACT

1. On October 11, 2000, the Board issued to Handel Jay Roberts, M.D., a Notice of Immediate Suspension and Opportunity for Hearing [Suspension Notice], informing him that his certificate to practice medicine and surgery in Ohio had been immediately suspended. The Board stated that it had received a report from the Office of the Prosecuting Attorney of Stark County, Ohio, stating that, on or about September 20, 2000, the Stark County Common Pleas Court had found Dr. Roberts eligible for intervention in lieu of conviction for violations of Ohio Revised Code [R.C.] 2925.23, Illegal Processing of Drug Documents. In addition, the Board notified Dr. Roberts of proposed disciplinary action against his certificate based on his plea of guilty to eight felonies, the conduct

underlying the plea, and the court's finding of drug dependence when granting intervention in lieu of conviction.

2. On or about December 13, 2000, Dr. Roberts entered into a Step I Consent Agreement [Consent Agreement] with the Board in lieu of formal proceedings based upon his violations of R.C. 4731.22(B)(9), 4731.22(B)(3), and 4731.22(B)(26), and his violation of R.C. 4731.22(B)(20) as predicated on a violation of Rule 4731-11-08, Ohio Administrative Code.

Among the terms, conditions and limitations to which Dr. Roberts agreed in the Consent Agreement was the suspension of his certificate to practice medicine and surgery in Ohio for an indefinite period of time. Dr. Roberts' certificate remains suspended. At all times relevant in this matter, Dr. Roberts remained subject to the Consent Agreement.

In the Consent Agreement, Dr. Roberts agreed to participate in a program of weekly random testing of his urine for drugs and alcohol according to specific conditions and requirements. He also agreed to make quarterly appearances before the Board or its designated representative.

3. By letter dated May 23, 2003, Dr. Roberts stated to the Board: "For financial reasons, I can no longer make Quarterly Appearances in Columbus or continue with the Step I agreement."
4. From May 23, 2003, to the date of the hearing on January 5, 2006, Dr. Roberts failed to comply with material provisions of the Consent Agreement. For example, he did not comply with the requirements for weekly drug-testing: he failed to provide a urine specimen on a weekly basis and failed to provide to the Board for its approval the name of a physician to act as the supervising physician for his drug-testing. In addition, since May 2003, Dr. Roberts has not appeared before the Board or its designated representative for quarterly interviews.

CONCLUSION OF LAW

The conduct of Handel Jay Roberts, M.D., as set forth above in Findings of Fact 2 through 4 constitutes a "[v]iolation of the conditions of limitation placed by the board upon a certificate to practice," as that clause is used in Ohio Revised Code Section 4731.22(B)(15).

* * * * *

At the hearing, Dr. Roberts' demeanor and attitude demonstrated a lack of credibility and trustworthiness. The manner as well as the substance of his testimony showed a troubling inability to comprehend the role of the Consent Agreement in protecting the public. For example, his insistence that he was entitled to reinstatement despite the lack of drug tests as required every week shows his failure to understand the crucial importance of the drug tests. Further, Dr. Roberts

demonstrated an alarming lack of insight as to his personal responsibility, including his responsibility for ensuring that his drug screens and reinstatement assessments were completed in accord with the Board's requirements. During the hearing, Dr. Roberts did not appear to comprehend fully that he had voluntarily agreed to the terms and conditions of the Consent Agreement in return for the Board's foregoing of formal proceedings against his certificate for multiple violations of Ohio law.

Given the history of drug dependence and relapse, and considering the felonies to which Dr. Roberts had pleaded guilty, the Board properly imposed a strict monitoring plan in the Consent Agreement, but Dr. Roberts violated the agreement repeatedly. Based on all the circumstances, it would be pointless for the Board to issue an order of suspension with a view toward potential reinstatement, because, in order to protect the public, the Board would necessarily be obliged to impose terms and conditions similar to those in the Consent Agreement. Dr. Roberts has demonstrated repeated lack of compliance with the Board's terms and conditions and, indeed, has demonstrated an inability or unwillingness to understand them.

PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Handel Jay Roberts, M.D., to practice medicine and surgery in the State of Ohio shall be **PERMANENTLY REVOKED**.

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



Patricia A. Davidson
Hearing Examiner



State Medical Board of Ohio

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

EXCERPT FROM THE DRAFT MINUTES OF MARCH 8, 2006

REPORTS AND RECOMMENDATIONS

Dr. Robbins announced that the Board would now consider the findings and orders appearing on the Board's agenda. He asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Jabir Kamal Akhtar, M.D.; David Ta-Wei Huang, M.D.; Handel Jay Roberts, M.D.; and Marc H. Schwachter, M.D. A roll call was taken:

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

Dr. Robbins 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. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

Dr. Robbins 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. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

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

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

.....
HANDEL JAY ROBERTS, M.D.

Dr. Robbins directed the Board's attention to the matter of Handel Jay Roberts, M.D. He advised that objections were filed to Hearing Examiner Davidson's Report and Recommendation and were previously distributed to Board members.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF HANDEL JAY ROBERTS, M.D. MS. SLOAN SECONDED THE MOTION.

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

Dr. Steinbergh stated that this is a case of a physician who has violated his Consent Agreement. She stated that there's documentation that Dr. Roberts had considerable difficulty with monitoring and with submitting screens. Dr. Steinbergh stated that the Conclusions of Law in the Report and Recommendation are appropriate in this case. She added, however, that she feels strongly that in this particular case, should Dr. Roberts decide that he wants to be monitored by this Board and find his way back to the practice of medicine, he should have that opportunity. She suggested changing the Proposed Order from a permanent revocation to a revocation.

Mr. Browning stated that he had the same reaction, commenting that Dr. Roberts just dropped off and disappeared. Dr. Roberts would have to bring a good case to get his license back, but the Board should give him the chance to do that. A straight revocation would let him do that.

Dr. Egner stated that Dr. Roberts is one of a minority of impaired individuals who really don't fit into the traditional recovery programs. She stated that one needs to buy into the A.A. method, the Caduceus method, etc. You need to buy into it for it to work for you. If you don't, it's impossible to comply. She commented that the Board doesn't have an alternative method to offer these people. She added that she's

not suggesting that the Board should have such an alternative, but to think that everyone fits into the same recovery pattern is unrealistic.

Dr. Egner continued that she hadn't given thought to just revoking Dr. Roberts' license because, personally, she doesn't think he'll ever make it in the Board's system. She added that she's not opposed to the suggested amendment because, if Dr. Roberts can come around to some sort of reconciliation and abide by the system the Board has, he should be given the opportunity to do so.

Dr. Steinbergh agreed with Dr. Egner. She added that she doesn't see anything so horrific in this case that she would want to permanently revoke the physician's license. Dr. Steinbergh commented that she has difficulty permanently revoking in impairment cases.

MR. BROWNING MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF HANDEL JAY ROBERTS, M.D. TO DELETE THE WORD, "PERMANENTLY." MS. SLOAN SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Steinbergh	- aye

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF HANDEL JAY ROBERTS, M.D. MR. BROWNING SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye

Dr. Davidson - aye
Dr. Steinbergh - aye

The motion carried.



State Medical Board of Ohio

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

February 9, 2005

Handel Jay Roberts, M.D.
4487 South Boulevard Northwest
Apt. 22
Canton, Ohio 44718-2029

Dear Doctor Roberts:

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

- (1)(a) On or about October 11, 2000, upon receipt of a report by the Office of the Prosecuting Attorney of Stark county, Ohio, that, on or about September 20, 2000, the Court of Common Pleas of Stark County, Ohio, had found you eligible for intervention in lieu of conviction pursuant to R.C. 2951.041, for violations of R.C. 2925.23, Illegal Processing of Drug Documents, the State Medical Board of Ohio (Board) notified you, pursuant to R.C. 3719.121, your license to practice medicine and surgery in the State of Ohio was immediately suspended. A copy of the Ohio Board Notice of Immediate Suspension and Opportunity for Hearing is attached hereto and incorporated herein.
- (b) Subsequently, on or about December 13, 2000, by Consent Agreement with the Board (Step I), your certificate to practice medicine and surgery in Ohio was suspended for an indefinite period of time, in lieu of formal proceedings based upon your violations of:

R.C. 4731.22(B)(9).

R.C. 4731.22(B)(3), as in effect prior to March 9, 1999.

R.C. 4731.22(B)(20), to wit: O.A.C. Rule 4731-11-08.

R.C. 4731.22(B)(26).

As of this date, your Ohio license remains suspended and subject to the Agreed Conditions of the above Board Consent Agreement, a copy of which is attached hereto and incorporated herein.

- (2) On or about May 23, 2003, you notified the Ohio Board, "for financial reasons," you would no longer make quarterly appearances before the Board [or its designated representatives], as required by paragraph 4 of the above Consent Agreement, or continue to comply with the above Consent Agreement.

MAILED 2-10-05
SECOND MAILING 3-18-05

On or about February 25, 2004, while entering your car, a Board investigator handed you a packet containing a consent agreement for a permanent surrender revocation of your Ohio license to practice. You threw the packet out of the car window, shouting that you hadn't accepted the packet as you sped off.

- (3) From May 23, 2003, to present you have failed to comply with the Agreed Conditions of the above Consent Agreement.

Your acts, conduct, and/or omissions, as alleged in paragraphs two (2) and three (3) 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 R.C. 4731.22(B)(15).

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

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

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT/cw
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5149 5896
RETURN RECEIPT REQUESTED

Handel Jay Roberts, M.D.
Page 3

Second mailing: 4487 South Boulevard NW, Apt. 22
Canton, OH 44718-2029
CERTIFIED MAIL NO. 7002 2410 0002 3141 3765
RETURN RECEIPT REQUESTED

STEP I
CONSENT AGREEMENT
BETWEEN
HANDEL JAY ROBERTS, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

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

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

BASIS FOR ACTION

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

- A. THE STATE MEDICAL BOARD OF OHIO is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for any of the enumerated violations.
- B. THE STATE MEDICAL BOARD OF OHIO enters into this CONSENT AGREEMENT in lieu of further formal proceedings based upon the violations of Section 4731.22, Ohio Revised Code, as set forth in the Notice of Immediate Suspension and Opportunity for Hearing issued by the STATE MEDICAL BOARD OF OHIO on October 11, 2000, attached hereto as Exhibit A and incorporated by this reference, and formal proceedings based upon the additional evidence of DOCTOR ROBERTS' violation of Section 4731.22(B)(26), Ohio Revised Code, contained in paragraph E. below. THE STATE MEDICAL BOARD OF OHIO expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement.
- C. HANDEL JAY ROBERTS, M.D.'s license to practice medicine and surgery in the State of Ohio is currently suspended pursuant to the terms of the

Notice of Immediate Suspension and Opportunity for Hearing issued by THE STATE MEDICAL BOARD OF OHIO on October 11, 2000, attached hereto as Exhibit A and incorporated herein by reference.

- D. HANDEL JAY ROBERTS, M.D., STATES that he is not licensed to practice medicine and surgery in any other state or jurisdiction.
- E. HANDEL JAY ROBERTS, M.D., ADMITS the factual and legal allegations set forth in the Notice of Immediate Suspension and Opportunity for Hearing issued by THE STATE MEDICAL BOARD OF OHIO on October 11, 2000, attached hereto as Exhibit A and incorporated herein by reference.

Further, DOCTOR ROBERTS ADMITS that he was initially treated for opioid dependency at St. Thomas Hospital, a BOARD approved treatment facility in Akron, Ohio, receiving inpatient or residential treatment from May 26, 2000, to June 22, 2000. DOCTOR ROBERTS STATES that at the time of his admission to St. Thomas Hospital his hydrocodone use, which had begun in 1997, had progressed to approximately 300 milliliters of Vicodin Tuss daily, and that he required detoxification.

Further, DOCTOR ROBERTS ADMITS that following completion of his initial treatment for chemical dependency, he relapsed on hydrocodone. DOCTOR ROBERTS STATES that such relapse occurred on or about September 18, 2000, and involved his ingestion of approximately three hydrocodone tablets. In addition, DOCTOR ROBERTS ADMITS that a urine specimen which he submitted to the Stark County Adult Parole Authority on September 20, 2000, the day on which he pleaded guilty to eight felony counts of Illegal Processing of Drug Documents and was granted intervention in lieu of conviction, tested positive for opiates, and further ADMITS that he subsequently acknowledged the positive screen to an employee of the Stark County Adult Parole Authority when confronted concerning the positive screen result.

DOCTOR ROBERTS STATES that he submitted to a pre-admission evaluation at Maryhaven, a BOARD approved treatment provider in Columbus, Ohio, in November 2000, in anticipation of entering inpatient or residential treatment at Maryhaven, and further STATES that he is currently awaiting notification of an opening in the Maryhaven treatment program.

DOCTOR ROBERTS STATES that he entered into an advocacy contract with the Ohio Physicians Effectiveness Program on or about November 17, 2000, and that he has remained compliant with such advocacy contract to date.

AGREED CONDITIONS

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

SUSPENSION OF CERTIFICATE

1. The immediate suspension of HANDEL JAY ROBERTS, M.D.'s certificate to practice medicine and surgery in the State of Ohio, stemming from the Notice of Immediate Suspension and Opportunity for Hearing issued by the Board on October 11, 2000, is hereby terminated. Further, the certificate of HANDEL JAY ROBERTS, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than one (1) year from the effective date of this CONSENT AGREEMENT;

Sobriety

2. DOCTOR ROBERTS shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of DOCTOR ROBERTS' history of chemical dependency;
3. DOCTOR ROBERTS shall abstain completely from the use of alcohol;

Releases; Quarterly Declarations and Appearances

4. DOCTOR ROBERTS shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for DOCTOR ROBERTS' chemical dependency or related conditions, or for purposes of complying with the CONSENT AGREEMENT, whether such treatment or evaluation occurred before or after the effective date of this CONSENT AGREEMENT. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. DOCTOR ROBERTS further agrees to provide the BOARD written consent permitting any treatment provider from whom he obtains treatment to notify the BOARD in the event he fails to agree to or comply with any treatment contract or aftercare

contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this CONSENT AGREEMENT.

5. DOCTOR ROBERTS shall submit quarterly declarations under penalty of BOARD disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this CONSENT AGREEMENT. The first quarterly declaration must be received in the BOARD's offices on the first day of the third month following the month in which the CONSENT AGREEMENT becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the BOARD's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the BOARD's offices on or before the first day of every third month;
6. DOCTOR ROBERTS shall appear in person for quarterly interviews before the BOARD or its designated representative, or as otherwise directed by the BOARD.

If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled. (Example: The first quarterly appearance is scheduled for February, but based upon the doctor's serious personal illness he is permitted to delay appearance until April. The next appearance will still be scheduled for May, three months after the appearance as originally scheduled.) Although the BOARD will normally give DOCTOR ROBERTS written notification of scheduled appearances, it is DOCTOR ROBERTS' responsibility to know when personal appearances will occur. If he does not receive written notification from the BOARD by the end of the month in which the appearance should have occurred, DOCTOR ROBERTS shall immediately submit to the BOARD a written request to be notified of his next scheduled appearance;

Drug & Alcohol Screens; Supervising Physician

7. DOCTOR ROBERTS shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the BOARD. DOCTOR ROBERTS shall ensure that all screening reports are forwarded directly to the BOARD on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the BOARD;

Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR ROBERTS shall submit to the BOARD for its

prior approval the name of a supervising physician to whom DOCTOR ROBERTS shall submit the required urine specimens. In approving an individual to serve in this capacity, the BOARD will give preference to a physician who practices in the same locale as DOCTOR ROBERTS. The supervising physician shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the BOARD of any positive screening results;

DOCTOR ROBERTS shall ensure that the supervising physician provides quarterly reports to the BOARD, on forms approved or provided by the BOARD, verifying whether all urine screens have been conducted in compliance with this CONSENT AGREEMENT, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his responsibilities;

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

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

Inpatient/Residential Treatment

8. DOCTOR ROBERTS shall complete a minimum of twenty-eight (28) days of inpatient or residential treatment, or a combination thereof, for his chemical dependency. Such inpatient or residential treatment shall commence within sixty (60) days of the effective date of this CONSENT AGREEMENT, unless otherwise authorized in advance by the BOARD, and shall be completed without interruption. Further, such inpatient or residential treatment shall be provided in accordance with Rule 4731-16-08(A)(13), Ohio Administrative Code, by a treatment provider approved under Section 4731.25, Ohio Revised Code.

In addition, upon discharge from treatment, DOCTOR ROBERTS shall enter into, and thereafter maintain compliance with, a post-discharge aftercare contract, which complies with Rule 4731-16-10, Ohio Administrative Code, with such treatment provider.

CONDITIONS FOR REINSTATEMENT

9. The BOARD shall not consider reinstatement of DOCTOR ROBERTS' certificate to practice medicine and surgery unless and until all of the following conditions are met:
 - a. DOCTOR ROBERTS shall submit an application for reinstatement, accompanied by appropriate fees, if any;
 - b. DOCTOR ROBERTS shall demonstrate to the satisfaction of the BOARD that he can resume practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
 - i. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that DOCTOR ROBERTS has successfully completed any required inpatient treatment, including, but not limited to, the inpatient or residential treatment required by paragraph 8. above;
 - ii. Evidence of continuing full compliance with an aftercare contract and consent agreement;
 - iii. Two written reports indicating that DOCTOR ROBERTS' ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the BOARD for making such assessments and shall describe the basis for this determination.
 - c. DOCTOR ROBERTS shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the BOARD or, if the BOARD and DOCTOR ROBERTS are unable to agree on the terms of a written CONSENT AGREEMENT, then DOCTOR ROBERTS further agrees to abide

by any terms, conditions and limitations imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Ohio Revised Code.

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

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

REQUIRED REPORTING BY LICENSEE

11. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR ROBERTS shall provide a copy of this CONSENT AGREEMENT by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. DOCTOR ROBERTS further agrees to provide a copy of this CONSENT AGREEMENT by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement of any professional license. Further, DOCTOR ROBERTS shall provide this BOARD with a copy of the return receipt as proof of notification within thirty (30) days of receiving that return receipt.
12. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR ROBERTS shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, DOCTOR ROBERTS shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he contracts to

provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

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

FAILURE TO COMPLY

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

ACKNOWLEDGMENTS/LIABILITY RELEASE

DOCTOR ROBERTS acknowledges that he has had an opportunity to ask questions concerning the terms of this CONSENT AGREEMENT and that all questions asked have been answered in a satisfactory manner.

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

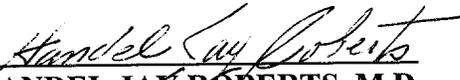
DOCTOR ROBERTS hereby releases THE STATE MEDICAL BOARD OF OHIO, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

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

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

EFFECTIVE DATE

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



HANDEL JAY ROBERTS, M.D.

11-04-00

DATE



ERIC J. PLINKE, ESQ.
Attorney for Dr. Roberts

11/30/00

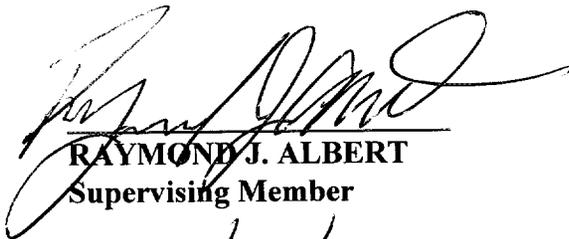
DATE



ANAND G. GARG, M.D.
Secretary

12/13/00

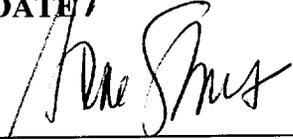
DATE



RAYMOND J. ALBERT
Supervising Member

12/13/00

DATE



ANNE B. STRAIT, ESQ.
Assistant Attorney General

12/13/00

DATE

12/13/00
12/13/00



State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING

October 11, 2000

Handel Jay Roberts, M.D.
100 Cove Lane, Apt. 23
Rossford, OH 43460

Dear Doctor Roberts:

In accordance with Sections 2929.24 and/or 3719.12, Ohio Revised Code, the Office of the Prosecuting Attorney of Stark County, Ohio, reported that on or about September 20, 2000, the Court of Common Pleas of Stark County, Ohio, found you eligible for intervention in lieu of conviction pursuant to Section 2951.041, Ohio Revised Code, for violations of Section 2925.23, Ohio Revised Code, Illegal Processing of Drug Documents.

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

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

- (1) On or about September 20, 2000, in the Common Pleas Court of Stark County, Ohio, you pleaded guilty to eight (8) felony counts of Illegal Processing of Drug Documents in violation of Section 2925.23, Ohio Revised Code, and were granted intervention in lieu of conviction pursuant to Section 2951.041, Ohio Revised Code.

Mailed 10-12-00

The acts underlying your guilty pleas and the judicial finding of Eligibility for Intervention in Lieu of Conviction include that you issued prescriptions for the controlled substances listed below in the names of others, although the medications were, in whole or in part, for your own use; or in your own name using another physician's name as the prescribing physician. These acts occurred as a continuous course of conduct during the periods listed below.

Count 1	01/16/00 to 01/24/00	Oxycodone (CS II)
Count 2	08/08/99 to 01/28/00	Oxycodone (CS II)
Count 3	11/17/98 to 03/19/00	Hydrocodone (CS III)
Count 4	11/29/98 to 05/22/00	Hydrocodone (CS III)
Count 5	01/18/99 to 05/10/00	Hydrocodone (CS III)
Count 6	05/09/99 to 05/18/99	Vicodin HP (CS III)
Count 7	09/15/98 to 05/24/00	Hydrocodone (CS III)
Count 8	09/15/98 to 05/24/00	Hydrocodone (CS III)

Further, many of these prescriptions were issued in the name of a close female friend, who was a "family member" as that term is defined in Rule 4731-11-08(C), Ohio Administrative Code.

- (2) In granting your request for Intervention in Lieu of Conviction pursuant to Section 2951.041, Ohio Revised Code, the Court found that your "drug dependence was a factor leading to this criminal activity and rehabilitation through treatment would substantially reduce the likelihood of [you] committing future criminal activity."

Your plea of guilty or the judicial finding of eligibility for intervention in lieu of conviction, as alleged in paragraph (1) above, individually and/or collectively, constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction for, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

Further, your plea of guilty and/or the judicial finding of eligibility for intervention in lieu of conviction, as alleged in paragraph (1) above, and/or your acts, conduct, and/or omissions underlying your plea of guilty and/or the judicial finding of eligibility for intervention in lieu of conviction, as alleged in paragraph (1) above, individually and/or collectively, constitute "[s]elling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, or a judicial finding of guilt of, a violation of any federal or state law regulating the possession, distribution, or use of any drug," as those clauses are used in Section 4731.22(B)(3), Ohio Revised Code, as in effect prior to March 9, 1999, and/or "[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a

judicial finding of eligibility for treatment in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug," as those clauses are used in Section 4731.22(B)(3), Ohio Revised Code, as in effect on and after March 9, 1999.

Further, your acts, conduct, and/or omissions underlying your plea of guilty and/or the judicial finding of eligibility for intervention in lieu of conviction, as alleged in paragraph (1) above and occurring after November 11, 1998, individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-08, Ohio Administrative Code.

Further, your acts, conduct, and/or omissions underlying your guilty plea and the judicial finding of eligibility for intervention in lieu of conviction, as alleged in paragraph (1) above, and/or your acts, conduct, and/or omissions, as alleged in paragraph (2) above, individually and/or collectively, constitute "[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.

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

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

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, effective March 9, 1999, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to

register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Anand G. Garg, M.D.
Secretary

AGG/krt

Enclosures

CERTIFIED MAIL # Z 233 841 335
RETURN RECEIPT REQUESTED

cc: Eric J. Plinke, Esq.
Porter, Wright, Morris & Arthur, LLP
41 South High Street
Columbus, Ohio 43215-6194

CERTIFIED MAIL # Z 233 841 426
RETURN RECEIPT REQUESTED