

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

Marc H. Schwachter, M.D. :

Appellant, :

Case No. 06CV-003641

vs. :

Judge Schneider

STATE MEDICAL BOARD OF OHIO :

Appellee. :



ORDER

Appellant's Notice to Withdraw Appeal is granted. It is so ordered.

Judge Schneider

Cc: Elizabeth Y. Collis, Counsel for Appellant
Kyle Wilcox, AAG, Counsel for Appellee

CLERK OF COURTS

2006 JUN 14 PM 7: 03

FILED
COMMON PLEAS COURT
FRANKLIN CO., OHIO

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

Marc H. Schwachter, M.D.
431 Telford Avenue
Dayton, Ohio 45410
Appellant,

Case No. 06CVF-3-3640

vs.

JUDGE _____

STATE MEDICAL BOARD OF OHIO
77 South High Street, 16th floor
Columbus, Ohio 43215-6127

Appellee

FILED COURT
RECEIVED
FRANKLIN COUNTY, OHIO
DE MAR 16 PM 12:59
CLERK OF COURTS - CV

NOTICE OF APPEAL

Appellant, Marc H. Schwachter, M.D., pursuant to Ohio Revised Code Section 19.12 hereby appeals the final decision of the Ohio State Medical Board ("Appellee"), which permanently revoked his license to practice medicine in Ohio in its Adjudication Order (attached hereto) issued on March 8, 2006 and mailed to Appellant on March 9,

STATE MEDICAL BOARD
OF OHIO
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Appellant asserts that the decision of the Ohio State Medical Board is not

STATE MEDICAL BOARD
FRANKLIN COUNTY, OHIO
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supported by reliable, probative and substantial evidence and is not in accordance with law.

Respectfully submitted,



Elizabeth Y. Collis (#0061961)

Collis, Smiles & Collis, LLC

1650 Lake Shore Drive, Suite 225

Columbus, Ohio 43204

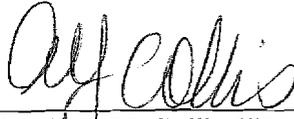
(614) 486-3909; Fax (614) 486-2129

Attorney for Appellant,

Marc H. Schwachter, M.D.

Certificate of Service

I certify that the *Notice of Appeal* was served upon Appellee, Ohio State Medical Board, 77 S. High Street, 17th Floor, Columbus, Ohio 43215 by hand delivery this 16th day of March, 2006 and upon and counsel for Appellee, Kyle Wilcox, Assistant Attorney General, Office of the Ohio Attorney General, Health and Human Services Section, 30 East Broad Street, 26th Floor, Columbus, Ohio 43215 by regular U.S. mail postage prepaid on this 16th day of March, 2006.



Elizabeth Y. Collis (#0061961)



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-5937 • Website: www.med.ohio.gov

March 8, 2006

Marc H. Schwachter, M.D.
431 Telford Avenue
Dayton, OH 45410

Dear Doctor Schwachter:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, 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 8, 2006, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of 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 7893
RETURN RECEIPT REQUESTED

Cc: Elizabeth Y. Collis, Esq.
CERTIFIED MAIL NO. 7003 0500 0002 4329 7923
RETURN RECEIPT REQUESTED

Mailed 3-9-06

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, 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, 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 Marc H. Schwachter, 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

*

*

MARC H. SCHWACHTER, 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 Sharon W. Murphy, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the 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 Marc H. Schwachter, M.D., to practice medicine and surgery in the State of Ohio is PERMANENTLY 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

STATE MEDICAL BOARD
OF OHIO

2006 JAN 31 P 2: 03

**REPORT AND RECOMMENDATION
IN THE MATTER OF MARC H. SCHWACHTER, M.D.**

The Matter of Marc H. Schwachter, M.D., was heard by Sharon W. Murphy, Esq., Hearing Examiner for the State Medical Board of Ohio, on January 9, 2006.

INTRODUCTION

I. Basis for Hearing

A. In a Notice of Summary Suspension and Opportunity for Hearing dated July 13, 2005, the State Medical Board of Ohio [Board] notified Marc H. Schwachter, M.D., that, pursuant to Section 4731.22(G), Ohio Revised Code, the Board had adopted an Order of Summary Suspension of his certificate to practice medicine and surgery in Ohio. The Board further advised that continued practice would be considered practicing without a certificate, in violation of Section 4731.141, Ohio Revised Code.

Moreover, the Board notified Dr. Schwachter that it had proposed to take disciplinary action against his certificate. The Board based its proposed action on events relating to Dr. Schwachter's alleged history of impairment. Further, the Board alleged that Dr. Schwachter's conduct constitutes:

- “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 that clause is used in Section 4731.22(B)(26), Ohio Revised Code”;
- “[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, podiatric medicine and surgery, 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”; and/or
- “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.”

Accordingly, the Board advised Dr. Schwachter of his right to request a hearing in this matter. (State's Exhibit 1A)

- B. On July 27, 2005, the Board received a written hearing request submitted by Elizabeth Y. Collis, Esq., on behalf of Dr. Schwachter. (State's Exhibit 1B)

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: Elizabeth Y. Collis, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

- A. Presented by the State
 - 1. Marc H. Schwachter, M.D., as upon cross-examination
 - 2. Rebecca J. Marshall, Esq.
- B. Presented by the Respondent
 - 1. Marc H. Schwachter, M.D.
 - 2. Christopher Croom, M.D.
 - 3. Ella Schwachter
 - 4. Joseph R. Mastandrea, D.O.

II. Exhibits Examined

- A. Presented by the State
 - 1. State's Exhibits 1A through 1R: Procedural exhibits.
 - 2. State's Exhibit 2: Certified copies of documents regarding Dr. Schwachter maintained by the Board.
 - 3. State's Exhibit 3: Copy Dr. Schwachter's April 24, 2005, Declaration of Compliance.
 - 4. State's Exhibit 4: Copy of an affidavit of Edna Marie Jones, M.D., with attached March 22, 2005, report of evaluation of Dr. Schwachter. (Note: This exhibit is sealed to protect patient confidentiality.)

5. State's Exhibit 5: Copy of a June 22, 2005, letter to the Board from Chester Prusinski, D.O. (Note: This exhibit is sealed to protect patient confidentiality.)
6. State's Exhibit 6: Certified copy of medical records pertaining to Dr. Schwachter maintained by Glenbeigh Hospital and Outpatient Centers. (Note: This exhibit is sealed to protect patient confidentiality.)

B. Presented by the Respondent

1. Respondent's Exhibit A: Copy of an Ohio Physicians Effectiveness Program Agreement signed by Dr. Schwachter on April 12, 2004, with attached amendment signed by Dr. Schwachter on August 15, 2005.
2. Respondent's Exhibit B: Copy of an Aftercare Contract between Dr. Schwachter and Bethesda Alcohol and Drug Treatment Program.
3. Respondent's Exhibit C: Copy of a Glenbeigh Hospital and Outpatient Centers Discharge Summary pertaining to Dr. Schwachter. (Note: This exhibit is sealed to protect patient confidentiality.)
4. Respondent's Exhibit D: Copy of an October 28, 2005, letter from Joseph Mastandrea, D.O., to Elizabeth Y. Collis, Esq.
5. Respondent's Exhibit D-1: Copy of January 6, 2006, letter from Dr. Mastandrea to Ms. Collis.

SUMMARY OF THE EVIDENCE

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

1. Marc H. Schwachter, M.D., testified that he had obtained his medical degree in 1997 from Case Western Reserve University in Cleveland, Ohio. In 2001, he completed a residency in obstetrics and gynecology at the University of Illinois in Chicago. Thereafter, he joined a private practice in obstetrics and gynecology in Dayton, Ohio. (Hearing Transcript [Tr.] at 20-24)

Dr. Schwachter has a certificate to practice medicine and surgery in the State of Illinois, but has allowed that certificate to lapse. Moreover, his Ohio certificate is currently summarily suspended. (Tr. at 24)

Report and Recommendation

In the Matter of Marc H. Schwachter, M.D.

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2. Dr. Schwachter testified that he had used alcohol and illegal drugs, including cocaine, as a teenager. He did not use cocaine again until a friend provided it to him during his residency. Dr. Schwachter testified that his use rapidly increased, causing him to sleep during the day. The residency program directors noticed a change in his behavior and questioned him about it, but Dr. Schwachter did not admit his cocaine use. The residency program directors asked him to be evaluated by a psychiatrist. He did so, and was diagnosed with depression. Nevertheless, Dr. Schwachter testified that he had not disclosed his cocaine use to the psychiatrist. (Tr. at 25-28)

Moreover, Dr. Schwachter testified that the psychiatrist had ordered him to submit a urine sample for drug screening. Dr. Schwachter stated that, to avoid cocaine being detected in his urine, he had submitted a friend's urine instead of his own. (Tr. at 28-29)

3. Dr. Schwachter testified that, after he had started practicing in Dayton, he had been providing gynecologic care to a friend. The friend had been receiving Adderall, an amphetamine, from a psychiatrist. At some point, the friend's boyfriend shared some of the Adderall pills with Dr. Schwachter. Later, the friend reported to Dr. Schwachter that her psychiatrist was no longer unavailable, and asked Dr. Schwachter to refill her prescription. Dr. Schwachter testified that he had done so reluctantly at first, but then continued to write prescriptions for her. Eventually, Dr. Schwachter started writing prescriptions in the friend's name and filling them for his own use. (Tr. at 34-36)

Dr. Schwachter testified that, in approximately 2003, he had driven to a pharmacy in an alcohol-induced "blackout" and tried to fill a prescription written in the name of his friend. The pharmacist noticed that Dr. Schwachter was speaking in a bizarre manner, and contacted authorities. Dr. Schwachter was charged with two felony counts of deception to obtain illegal drugs and two felony counts of illegal processing of drug documents. (Tr. at 33-34, 36)

4. On November 12, 2003, Dr. Schwachter entered into a Step I Consent Agreement with the Board [November 2003 Step I Consent Agreement] based upon Dr. Schwachter's violations of Sections 4731.22(B)(2), (B)(6), (B)(20), and (B)(26), Ohio Revised Code. (St. Ex. 2 at 36-44) In the November 2003 Step I Consent Agreement, Dr. Schwachter made certain admissions including the following:
 - Dr. Schwachter had entered treatment for chemical dependency;
 - He had abused alcohol and Adderall;
 - He had issued a prescription for Adderall to a female family friend without personally conducting an examination of the friend or reviewing her prior medical records;
 - He had received a portion of the Adderall tablets he had prescribed to his female friend;

- He had been criminally charged with Illegal Processing of Drug Documents; and
- He was then being prescribed Prozac for the treatment of depression.

(State's Exhibit [St. Ex.] 2 at 37-38) The November 2003 Step I Consent Agreement suspended Dr. Schwachter's license for an indefinite period of time, but not less than 270 days or until such time as any and all criminal charges had been fully and finally resolved, whichever occurred later. (St. Ex. 2 at 39)

5. Dr. Schwachter testified that, in November 2003, he had completed an inpatient chemical dependency treatment program at the Woods of Parkside [Parkside] in Gahanna, Ohio. Shortly thereafter, Dr. Schwachter entered into an agreement with the Ohio Physicians Effectiveness Program [OPEP], (now known as the Ohio Physicians Health Program [OPHP]). (Tr. at 135-136)
6. In April 2004, Dr. Schwachter underwent surgery for ulnar neuropathy of the left arm. Dr. Schwachter explained that he had injured his arm, when he had been working on the computer all night long,¹ leaning on his left elbow and using the mouse with his right hand. He stated that he had awoken the next day to find that the fourth and fifth fingers of his left hand were numb. The numbness continued and eventually he lost strength in his hand. He started dropping things and was clumsy. Later, he noticed atrophy and decided to see a physician. At that point, however, the damage was done, and surgery could not repair the problem. Dr. Schwachter testified that this is a serious problem for him since he is left-hand-dominant and performed surgery primarily with his left hand. (Tr. at 137-140)
7. On June 9, 2004, Dr. Schwachter entered into an Amended Step I Consent Agreement with the Board [June 2004 Amended Step I Consent Agreement], based upon his violations of Sections 4731.22(B)(2), (B)(5), (B)(6), (B)(9), (B)(19), (B)(20), and (B)(26), Ohio Revised Code. (St. Ex. 2 at 26-35) In the June 2004 Amended Step I Consent Agreement, Dr. Schwachter made certain admissions including the following:
 - He had been discharged from chemical dependency treatment, inpatient treatment complete, and had undertaken intensive outpatient treatment thereafter;
 - In addition to his abuse of alcohol and Adderall, he had engaged in the illegal use of cocaine during his residency training in 1999 and 2000;
 - He had avoided detection by his residency program by deceptively submitting urine obtained from another resident, which he purported to be his own urine, when submitting a urine sample for drug screening;

¹ Dr. Schwachter testified that since that time he has been diagnosed with bipolar disorder, and that he now recognizes that, most likely, the injury had occurred during a manic episode.

- When submitting to the Board his initial application to practice medicine, he had falsely provided a negative answer to Question 25 that asked about the illegal use of controlled substances.
- He had entered pleas of guilty to four drug-related felonies, for which he had received intervention in lieu of conviction, and
- He had been diagnosed with Bipolar Disorder, Mixed.

(St. Ex. 2 at 27-28)

The June 2004 Amended Step I Consent Agreement terminated the November 2003 Step I Consent Agreement, and provided that Dr. Schwachter's license would be suspended for an indefinite period of time and, in any event, would remain suspended until at least December 31, 2004. The agreement further set forth certain requirements for reinstatement. (St. Ex. 2 at 28)

Moreover, pursuant to the June 2004 Amended Step I Consent Agreement, Dr. Schwachter agreed to certain probationary terms, as follows:

- Paragraph 2 required that he 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. Schwachter's history of chemical dependency and psychiatric diagnosis;
- Paragraph 3 required that he abstain completely from the use of alcohol;
- Paragraph 5 required that he submit quarterly declarations, under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of the agreement; and
- Paragraph 7 required that he submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board.

(St. Ex. 2 at 29-30)

8. In approximately February 2005, Dr. Schwachter relapsed. Dr. Schwachter testified regarding the circumstances that led to his relapse. He stated that he had met another Board licensee while at Parkside and had become friends with this individual. The individual had four children, one of whom was an eighteen-year-old female who abused drugs. Dr. Schwachter testified that he had spent a lot of time at this individual's home and befriended the girl. Dr. Schwachter started using cocaine, drinking vodka, and engaging in sexual activities with the girl. He continued this behavior through June 2005. (Tr. at 44-47)

9. Despite having relapsed during or about February 2005, Dr. Schwachter actively pursued reinstatement of his license to practice medicine and surgery. (Tr. at 43-44)
10. On or about March 22, 2005, Dr. Schwachter was evaluated by Edna Marie Jones, M.D., of Parkside, a Board-approved treatment provider, for the purpose of determining whether Dr. Schwachter was capable of practicing medicine and surgery according to acceptable and prevailing standards of care. Dr. Schwachter failed to report to Dr. Jones that he had relapsed. Thereafter, Dr. Jones submitted a report of her evaluation opining that Dr. Schwachter would be capable of practicing medicine and surgery according to acceptable and prevailing standards of care with certain limitations, including psychiatric care, medication compliance, counseling, 12-step meetings, and other monitoring conditions. Dr. Jones also suggested limitations based on his diagnosed permanent ulnar neuropathy. (St. Ex. 4 at 3-4)
11. On or about May 19, 2005, the Board reinstated Dr. Schwachter's license to practice medicine and surgery, subject to certain terms, conditions, and limitations, pursuant to ratification of a Step II Consent Agreement [May 2005 Step II Consent Agreement]. The agreement was based upon his violations of Sections 4731.22(B)(2), (B)(6), (B)(9), (B)(19), (B)(20), and (B)(26), Ohio Revised Code. (St. Ex. 2 at 14-25)

Pursuant to the May 2005 Step II Consent Agreement, Dr. Schwachter agreed to certain probationary terms, as follows:

- Paragraph 3 requires that he obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio;
- Paragraph 10 requires that he 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. Schwachter's history of chemical dependency and psychiatric diagnosis;
- Paragraph 11 requires that he abstain completely from the use of alcohol; and
- Paragraph 13 requires that he submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board.

(St. Ex. 2 at 18-20)

Finally, in the "Failure to Comply" provision of the May 2005 Step II Consent Agreement, Dr. Schwachter contractually agreed to the following:

If the Secretary and Supervising Member of the Board determine that there is clear and convincing evidence that Dr. Schwachter has violated any term, condition or limitation of this Consent Agreement, Dr. Schwachter 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.

(St. Ex. 2 at 24)

12. In June 2005, the individual Dr. Schwachter had met at Parkside learned of Dr. Schwachter's activities with the individual's daughter and confronted Dr. Schwachter. Dr. Schwachter realized that others would learn of his conduct, so he decided to report his relapse to the Board. (Tr. at 55-56) Dr. Schwachter testified that the individual will no longer have any contact with Dr. Schwachter. (Tr. at 72)
13. Dr. Schwachter testified that his last use of cocaine or alcohol had occurred on June 3, 2005. (Tr. at 68)
14. On June 14, 2005, Dr. Schwachter reported to the Board's Compliance Officer that he had relapsed on cocaine. He did not admit at that time that he had also used alcohol. Dr. Schwachter further reported that he had used cocaine on approximately four occasions with a friend's eighteen-year-old daughter, and that his friend had recently learned of his conduct. (Tr. at 55-57)

When questioned as to how his multiple uses of cocaine had not been detected through the random drug and alcohol screenings required by his monitoring agreements with the Board, Dr. Schwachter admitted that he had substituted someone else's urine when submitting specimens to his supervising physician. Dr. Schwachter explained that the eighteen-year-old girl had had a friend who did not use illicit drugs. Dr. Schwachter asked the friend for a urine sample, which the friend provided. Dr. Schwachter stored the urine "at home in the fridge right behind the eggs." He stated that he had kept the urine in the refrigerator while waiting to be called to submit a urine sample. (Tr. at 57-60)

On June 15, 2005, Dr. Schwachter further informed the Board's Compliance Officer that his relapse had additionally involved the use of alcohol. (Tr. at 61)

15. On July 12, 2005, Dr. Jones authored an affidavit, which stated that Dr. Schwachter had not advised her of his relapse at the time of his March 2005 evaluation. Moreover, he had falsely indicated to her that he had maintained continuous sobriety since entering treatment for chemical dependency in October 2003. Finally, Dr. Jones stated that, if she had been "aware at the time of the evaluation that Dr. Schwachter had relapsed, [she] would not have opined that he was capable of practicing medicine according to acceptable and prevailing standards of care, and would have instead determined that he was impaired in his ability to practice due to habitual or excessive use or abuse of drugs and/or alcohol." (St. Ex. 4 at 1-2)
16. Dr. Schwachter admitted at hearing that he had "completely misled" Dr. Jones. (Tr. at 49)

17. Moreover, prior to the reinstatement of his certificate, Dr. Schwachter made numerous false and fraudulent statements to the Board:
 - Dr. Schwachter failed to report his relapse to representatives of the Board during the course of communications related to the license reinstatement process and, on more than one occasion, falsely asserted that he had maintained long-term sobriety. (Tr. at 150-151)
 - On April 28, 2005, he signed and submitted to the Board a “Declaration of Compliance” falsely declaring that he was in continued compliance with all of the probationary terms, conditions, and limitations imposed upon him by the Board. (St. Ex. 3; Tr. at 50-51)
 - He appeared before the Supervising Member of the Board and the Board’s Compliance Officer for a quarterly probationary conference on May 16, 2005. When questioned about his recovery, he falsely represented that he had maintained uninterrupted sobriety. At hearing, Dr. Schwachter stated that, at the time of his quarterly probationary conference, despite his relapse, he had believed that his recovery was “just dandy.” (Tr. at 51-52)
 - On or about July 11, 2005, he admitted in deposition that approximately ten to twenty percent of the entries reflected on the Alcoholics Anonymous [AA] Attendance Log that he submitted to the Board for the period of February through March 2005 had been falsified, reflecting that he had attended AA meetings that he had not attended. (Tr. at 66-68)
18. By letter dated June 22, 2005, Chester Prusinski, D.O., Medical Director of Glenbeigh Health Sources of Rock Creek, Glenbeigh Hospitals and Outpatient Centers [Glenbeigh], advised that he and other staff members at Glenbeigh had evaluated Dr. Schwachter. As a result of that evaluation, Dr. Prusinski opined that Dr. Schwachter is unable to practice according to acceptable and prevailing standards of care because of impairment due to chemical dependence. In addition, Dr. Prusinski opined that Dr. Schwachter should obtain inpatient treatment for an undetermined duration of time. Finally, Dr. Prusinski noted that Dr. Schwachter had decided to remain at Glenbeigh for his inpatient treatment. (St. Ex. 5)

Dr. Schwachter remained at Glenbeigh for sixteen days, being discharged on July 7, 2005. (St. Ex. 6; Resp. Ex. C) Thereafter, Dr. Schwachter entered into an Aftercare Contract with the Bethesda Alcohol and Drug Treatment Program in Cincinnati, Ohio. (Tr. at 64-66; Resp. Ex. B)
19. Rebecca J. Marshall, Esq., testified that she is the Chief Enforcement Attorney for the Board. Ms. Marshall further testified that she had been involved with Dr. Schwachter’s case for a number of years. Ms. Marshall stated that she had worked with Dr. Schwachter during the process of reinstating his certificate pursuant to the May 2005 Step II Consent

Agreement. Ms. Marshall added that the Board had not learned of Dr. Schwachter's relapse until after his reinstatement in May 2005. (Tr. at 74-75)

Ms. Marshall further testified that, after Board staff learned that Dr. Schwachter had relapsed, Ms. Marshall had presented that information along with Dr. Schwachter's prior history of Board actions to the Secretary and Supervising Member of the Board. The Secretary and Supervising Member made a determination that there was clear and convincing evidence that Dr. Schwachter's continued practice presented an immediate and serious threat of harm to the public. Therefore, the Secretary and Supervising Member decided to submit a proposed Notice of Summary Suspension and Opportunity for Hearing for approval by the Board, and the Board voted to issue it. (Tr. at 75-76)

20. Christopher S. Croom, M.D., testified at hearing on behalf of Dr. Schwachter. Dr. Croom practices high-risk obstetrics in Dayton, Ohio, and has known Dr. Schwachter for four to five years, practicing obstetrics in the same community. Dr. Croom testified that he is currently Dr. Schwachter's AA sponsor. (Tr. at 80-82)

Dr. Croom testified that he had not been aware of Dr. Schwachter's relapse when it first occurred, even though he had been Dr. Schwachter's sponsor at the time. Dr. Croom further testified that, at that time, Dr. Schwachter had not been fully committed to the 12-step program. Moreover, Dr. Schwachter had been experiencing difficulty in multiple areas of his life, but had not used the 12-step program to its full potential. Since knowing of the relapse, Dr. Croom has worked with Dr. Schwachter to find better ways of using the program as a supportive tool. (Tr. at 84-85)

Dr. Croom testified that Dr. Schwachter is doing a "pretty good job" in his recovery at this time. Nevertheless, Dr. Croom testified that there is room still for improvement. He stated that Dr. Schwachter is still facing "stumbling blocks" in that he is having difficulty with his marriage and the loss of his medical license. (Tr. at 86-92)

21. Joseph R. Mastandrea, D.O., testified at hearing on behalf of Dr. Schwachter. Dr. Mastandrea testified that he practices internal medicine in Dayton, Ohio. He is Dr. Schwachter's professional monitor for the Ohio Physicians Health Program [OPHP, formerly OPEP]. Dr. Mastandrea testified that he is responsible for supervising Dr. Schwachter's random weekly urine screens and that, when Dr. Schwachter provides the sample, Dr. Mastandrea directly observes Dr. Schwachter as he expels the urine from his body. (Tr. at 124-127)

Dr. Mastandrea testified that he believes Dr. Schwachter is in a stable recovery. He stated that he is of this opinion because he is aware of no positive urine screens. Moreover, Dr. Mastandrea is familiar with Dr. Schwachter's participation in the 12-step recovery program, in counseling, and in a professional self-help group. (Tr. at 127-133; Resp. Exs. D and D-1)

22. Ella Schwachter, Dr. Schwachter's wife, testified on his behalf. Ms. Schwachter stated that she has been married to Dr. Schwachter for four years. They have two children: a boy, three-years-old; and a girl, seventeen-months-old. Ms. Schwachter is employed as a special education kindergarten teacher for severely handicapped children. (Tr. at 92-93)

Ms. Schwachter testified that, approximately three months after being discharged from Parkside, Dr. Schwachter's commitment to his recovery started to fail. Although she does not believe he was using at that time, his temper was out of control and his mood changed rapidly. He participated in his recovery program at a bare minimum. She noted that, shortly before that time, Dr. Schwachter had begun taking medication to treat bipolar disorder. After discharge, his medications were being adjusted and, at times, he had been too lethargic to get out of bed. (Tr. at 100-104)

At about the same time, Dr. Schwachter suffered the injury to his left hand. She explained that he now has only limited sensation, such that he may not be able to perform deliveries or surgery. She added that Dr. Schwachter had been devastated with this result. (Tr. at 104-108)

Ms. Schwachter further testified that, in approximately February 2005, Dr. Schwachter's condition had deteriorated rapidly. His thoughts and speech were racing, and he frequently broke dishes by slamming them when loading them into the dishwasher. She stated that he had been "doing everything as fast as was humanly possible without taking notice of what the consequences were." He was staying awake all night, then sleeping through the day. Ms. Schwachter testified that she had not realized he had relapsed, but thought he had discontinued his psychiatric medications. She stated that she had contacted Parkside, but had not found the help she sought. (Tr. at 108-110)

Ms. Schwachter testified that she had not learned of the relapse until the day Dr. Schwachter advised the Board of his relapse. She stated that, at about the same time, he had admitted to her his sexual relations with the young woman and his use of cocaine. (Tr. at 110-112)

Ms. Schwachter testified that, since his release from Glenbeigh, Dr. Schwachter is much more patient than he had been in the past. In addition, he has "slowed down," he is much more "even keeled," and it is much easier to be around him. Finally, he is more committed to AA and his recovery. (Tr. at 118-122) Ms. Schwachter testified that Dr. Schwachter has been participating regularly in his aftercare activities. Moreover, he and she had been attending counseling with a marriage therapist. Ms. Schwachter testified that she is very supportive of Dr. Schwachter in his recovery program, but would not tolerate any signs of a relapse. She testified that, should she suspect a relapse, she would call OPEP, Dr. Schwachter's AA sponsor, and the Board. (Tr. at 117-118)

23. Dr. Schwachter testified that, since treatment at Glenbeigh, he is more committed to his sobriety. He stated that prior to his relapse he had not really wanted to get better, but he does now. He stated he is willing to do what ever the Board asks in order to return to practice. (Tr. at 142-148)

24. Dr. Schwachter admitted that all of the allegations set forth in the Board's July 2005 Notice of Summary Suspension and Notice of Opportunity for Hearing are true. (Tr. at 150-151)

FINDINGS OF FACT

1. On November 12, 2003, Marc H. Schwachter, M.D., entered into a Step I Consent Agreement with the Board [November 2003 Step I Consent Agreement] based upon Dr. Schwachter's violations of Sections 4731.22(B)(2), (B)(6), (B)(20), and (B)(26), Ohio Revised Code. In the November 2003 Step I Consent Agreement, Dr. Schwachter made certain admissions, including that he had entered treatment for chemical dependency; that he had abused alcohol and Adderall; that he had issued a prescription for Adderall to a female family friend without personally conducting an examination of the friend or reviewing her prior medical records; that he had received a portion of the Adderall tablets he had prescribed to his female friend; and that he had been criminally charged with Illegal Processing of Drug Documents. The November 2003 Step I Consent Agreement suspended Dr. Schwachter's license for an indefinite period of time, but not less than 270 days or until such time as any and all criminal charges had been fully and finally resolved.
2. On June 9, 2004, Dr. Schwachter entered into an Amended Step I Consent Agreement with the Board [June 2004 Amended Step I Consent Agreement], based upon his violations of Sections 4731.22(B)(2), (B)(5), (B)(6), (B)(9), (B)(19), (B)(20), and (B)(26), Ohio Revised Code. In the June 2004 Amended Step I Consent Agreement, Dr. Schwachter made certain admissions, including that he had been discharged from chemical dependency treatment, inpatient treatment complete, and had undertaken intensive outpatient treatment thereafter; that, in addition to his abuse of alcohol and Adderall, he had engaged in the illegal use of cocaine during his residency training; that he had avoided detection by his residency program by deceptively submitting urine obtained from another resident, which he purported to be his own urine when submitting a urine sample for drug screening; that, when submitting to the Board his initial application to practice medicine, he had falsely provided a negative answer to Question 25 that asked about the illegal use of controlled substances; that he had entered pleas of guilty to four drug-related felonies, for which he had received intervention in lieu of conviction; and that he had been diagnosed with Bipolar Disorder, Mixed.

The June 2004 Amended Step I Consent Agreement terminated the November 2003 Step I Consent Agreement, and provided that Dr. Schwachter's license would be suspended for an indefinite period of time and, in any event, would remain suspended until at least December 31, 2004. The agreement further set forth certain requirements for reinstatement of his license to practice medicine and surgery in Ohio. Further, pursuant to the June 2004 Amended Step I Consent Agreement, Dr. Schwachter agreed to certain probationary terms, including that he 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

Report and Recommendation

In the Matter of Marc H. Schwachter, M.D.

Page 13

has full knowledge of Dr. Schwachter's history of chemical dependency and psychiatric diagnosis; that he abstain completely from the use of alcohol; that he submit quarterly declarations, under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of the agreement; and that he submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board.

3. Despite the requirements set forth in the June 2004 Amended Step I Consent Agreement, in approximately February 2005, Dr. Schwachter relapsed on alcohol and cocaine. In addition, Dr. Schwachter failed to report his relapse to the Board in a timely manner as required, and substituted someone else's urine for his own urine when submitting urine for random screenings for drugs and alcohol.
4. Despite having relapsed during or about February 2005, Dr. Schwachter actively pursued reinstatement of his license to practice medicine and surgery. In addition, Dr. Schwachter:
 - Failed to report his relapse to the Board during the reinstatement process;
 - Submitted to the Board a Declaration of Compliance falsely declaring that he had maintained continued compliance with the terms of the June 2004 Amended Step I Consent Agreement,
 - Falsely reported to the Board's Supervising Member that he had maintained uninterrupted sobriety;
 - Submitted falsified entries on his Alcoholics Anonymous attendance logs; and
 - Failed to disclose his relapse to a Board-approved-treatment provider who was evaluating him to determine whether he was capable of practicing medicine and surgery according to acceptable and prevailing standards of care.
5. On or about May 19, 2005, the Board reinstated Dr. Schwachter's license to practice medicine and surgery, subject to certain terms, conditions, and limitations, pursuant to ratification of a Step II Consent Agreement [May 2005 Step II Consent Agreement]. The agreement was based upon his violations of Sections 4731.22(B)(2), (B)(6), (B)(9), (B)(19), (B)(20), and (B)(26), Ohio Revised Code. Pursuant to the May 2005 Step II Consent Agreement, Dr. Schwachter agreed to certain probationary terms as noted in Findings of Fact 2, above.
6. Dr. Schwachter failed to comply with the terms of the May 2005 Step II Consent Agreement by failing to abstain from the illegal use of cocaine and alcohol, and by submitting another's urine for random urine screenings for drugs and alcohol.

7. By letter dated June 22, 2005, Chester Prusinski, D.O., of Glenbeigh Hospital and Outpatient Centers [Glenbeigh], opined that Dr. Schwachter is unable to practice according to acceptable and prevailing standards of care because of impairment due to chemical dependence. In addition, Dr. Prusinski opined that Dr. Schwachter should obtain inpatient treatment, and advised that he had been admitted to Glenbeigh for an undetermined duration. Thereafter, Dr. Schwachter completed sixteen days of inpatient treatment at Glenbeigh.
8. In the "Failure to Comply" provision of the May 2005 Step II Consent Agreement, Dr. Schwachter contractually agreed to the following:

If the Secretary and Supervising Member of the Board determine that there is clear and convincing evidence that Dr. Schwachter has violated any term, condition or limitation of this Consent Agreement, Dr. Schwachter 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.

9. 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.

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 license, and may issue an order of summary suspension as provided in Section 4731.22(G), Ohio Revised Code. The rule also 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.

CONCLUSIONS OF LAW

1. The conduct of Marc H. Schwachter, M.D., as described in Findings of Fact 1, 2, 3, 5, 6, and 7, constitutes "[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.

2. The conduct of Dr. Schwachter, as described in Findings of Fact 4, constitutes “[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, podiatric medicine and surgery, 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.
3. The conduct of Dr. Schwachter, as described in Findings of Fact 3 and 6, constitutes 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.

* * * * *

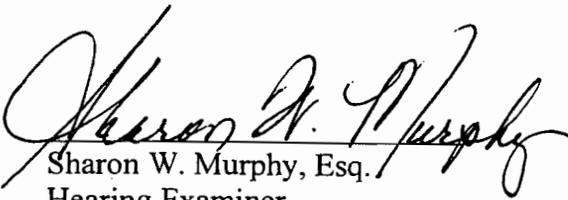
The evidence presented in this matter demonstrates that Dr. Schwachter has engaged in an extensive pattern of deceit in his relations with the Board, his treating physicians, his residency directors, his physician monitors, his friends, and his family. Although it is disquieting to deny such a young physician an opportunity to practice medicine and surgery in Ohio, Dr. Schwachter’s many fraudulent communications demonstrate that he is not amenable to any meaningful regulatory relationship with the Board. Moreover, Dr. Schwachter’s myriad of fraudulent communications further demonstrates that he lacks the good moral character necessary to be a physician in this State.

PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Marc H. Schwachter, M.D., to practice medicine and surgery in the State of Ohio is PERMANENTLY REVOKED.

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


Sharon W. Murphy, Esq.
Hearing Examiner



State Medical Board of Ohio

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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.

.....

MARC H. SCHWACHTER, M.D.

.....

DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF MARC H. SCHWACHTER, M.D. DR. EGNER SECONDED THE MOTION.

.....

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

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

The motion carried.



State Medical Board of Ohio

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July 13, 2005

Marc H. Schwachter, M.D.
431 Telford Avenue
Dayton, Ohio 45419

Dear Doctor Schwachter:

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 July 13, 2005, 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:blt
Enclosures

*Mailed 7.14.05
Hand Served*



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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 July 13, 2005, 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 Marc H. Schwachter, M.D., 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)

July 13, 2005

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF :
 :
MARC H. SCHWACHTER, M.D. :

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 13th day of July, 2005.

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, 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 Marc H. Schwachter, M.D., has violated Sections 4731.22(B)(15) and (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. Schwachter's continued practice presents a danger of immediate and serious harm to the public, and;

Pursuant to the terms of the Step II Consent Agreement Between Marc H. Schwachter, M.D., and The State Medical Board of Ohio, effective May 19, 2005, which states:

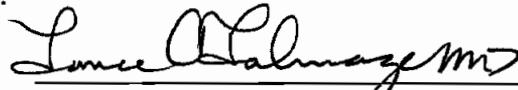
If the Secretary and Supervising Member of the Board determine that there is clear and convincing evidence that Dr. Schwachter has violated any term, condition or limitation of this Consent Agreement, Dr. Schwachter agrees that the violation, as alleged, also constitutes clear and convincing evidence 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.

The following Order is hereby entered on the Journal of the State Medical Board of Ohio for the 13th day of July, 2005:

It is hereby ORDERED that the certificate of Marc H. Schwachter, M.D., to practice medicine and surgery in the State of Ohio be summarily suspended.

It is hereby ORDERED that Marc H. Schwachter, 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.


Lance A. Talmage, M.D., Secretary

(SEAL)

July 13, 2005

Date



State Medical Board of Ohio

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EXCERPT FROM DRAFT MINUTES OF JULY 13, 2005

CITATIONS, PROPOSED DENIALS AND ORDERS OF SUMMARY SUSPENSION

.....

MARC H. SCHWACHTER, M.D. – ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

.....

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

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

The motion carried.



State Medical Board of Ohio

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NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

July 13, 2005

Marc H. Schwachter, M.D.
431 Telford Avenue
Dayton, Ohio 45419

Dear Doctor Schwachter:

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 (B)(26), Ohio Revised Code, and have further determined that, in accordance with the Step II Consent Agreement as referenced in paragraph (9) below, your continued practice presents a danger of immediate and serious harm to the public, as set forth in paragraphs (1), (2), (3), (6), (7), (8) and (9) 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 or 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 State Medical Board of Ohio intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about November 12, 2003, you entered into a Step I Consent Agreement with the Board [November 2003 Step I Consent Agreement] based upon your violations of Sections 4731.22(B)(2), (B)(6), (B)(20), and (B)(26), Ohio Revised Code. In the November 2003 Step I Consent Agreement, you made certain admissions including, *inter alia*, that you had entered treatment for chemical dependency; that you abused alcohol and Adderall; that you had issued a prescription for Adderall to a female family friend without personally conducting an examination of the friend or reviewing her prior medical records, and had received a portion of the Adderall tablets you had prescribed

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to her; and that you had been criminally charged with Illegal Processing of Drug Documents.

The November 2003 Step I Consent Agreement, a copy of which is attached hereto and fully incorporated herein, suspended your license for an indefinite period of time, but not less than 270 days or until such time as any and all criminal charges had been fully and finally resolved.

- (2) On or about June 9, 2004, you entered into an Amended Step I Consent Agreement with the Board [June 2004 Amended Step I Consent Agreement], based upon your violations of Sections 4731.22(B)(2), (B)(6), (B)(9), (B)(19), (B)(20), and (B)(26), Ohio Revised Code. In the June 2004 Amended Step I Consent Agreement you made certain admissions including, *inter alia*, that you had been discharged from chemical dependency treatment, inpatient treatment complete, and had undertaken intensive outpatient treatment thereafter; that in addition to your abuse of alcohol and Adderall, you had engaged in the illegal use of cocaine during your residency training; that you avoided detection by your residency program by deceptively submitting urine obtained from another resident, which you purported to be your own urine when submitting a urine sample for drug screening; and that when submitting to the Board your initial application to practice medicine, you had falsely provided a negative answer to Question 25 that asked about the illegal use of controlled substances. In addition, you further admitted that you had entered pleas of guilty to four drug-related felonies, for which you had received intervention in lieu of conviction, and that you had been diagnosed with Bipolar Disorder, Mixed.

The June 2004 Amended Step I Consent Agreement, a copy of which is attached hereto and fully incorporated herein, terminated the November 2003 Step I Consent Agreement, and provided that your license would be suspended for an indefinite period of time, and in any event, would remain suspended until at least December 31, 2004. The agreement further set forth certain requirements for reinstatement of your license to practice medicine and surgery in Ohio.

Further, pursuant to the June 2004 Amended Step I Consent Agreement, you agreed to certain probationary terms. Paragraph 2 requires that you shall abstain completely 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 and psychiatric diagnosis. Paragraph 3 requires that you shall abstain completely from the use of alcohol. Paragraph 5 requires that you 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 the agreement. Paragraph 7 requires that you shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board.

- (3) During or about February 2005, you relapsed on alcohol and cocaine, but at that time failed to report your relapse to the Board as required. Further, despite the requirements set forth in the June 2004 Amended Step I Consent Agreement, you failed to abstain from the illegal use of cocaine, failed to abstain from the use of alcohol, and failed to submit your own urine for random urine screenings for drugs and alcohol.
- (4) Despite having relapsed during or about February 2005, you actively pursued reinstatement of your license to practice medicine and surgery. On or about March 22, 2005, you were evaluated by Edna Jones, M.D., of The Woods at Parkside, a Board-approved treatment provider, for the purpose of determining whether you were capable of practicing medicine and surgery according to acceptable and prevailing standards of care. Despite having relapsed, you failed to disclose your return to the use of cocaine and alcohol to the evaluator.

Further, despite your aforementioned relapse, you failed to report your relapse to representatives of the Board during the course of communications related to the license reinstatement process, and, on more than one occasion, falsely asserted that you had maintained long term sobriety.

Further, despite your aforementioned relapse, on or about April 28, 2005, you signed and submitted to the Board a "Declaration of Compliance" falsely declaring that you were in continued compliance with all of the probationary terms, conditions and limitations imposed upon you by the Board.

Further, despite your aforementioned relapse, you appeared before representatives of the Board for a quarterly probationary conference on or about May 16, 2005, and when questioned by the Board's Supervising Member about your recovery, you falsely represented that you had maintained uninterrupted sobriety.

Further, on or about July 11, 2005, you admitted in deposition that approximately 10-20% of the entries reflected on the A.A. Attendance Log that you submitted to the Board for the period of February-March 2005 had been falsified, reflecting your attendance at A.A. meetings that, in fact, you did not actually attend.

- (5) On or about May 19, 2005, the Board reinstated your license to practice medicine and surgery, subject to certain terms, conditions, and limitations, pursuant to ratification of a Step II Consent Agreement [May 2005 Step II Consent Agreement]. The agreement, a copy of which is attached hereto and fully incorporated herein, was based upon your violations of Sections 4731.22(B)(2), (B)(6), (B)(9), (B)(19), (B)(20), and (B)(26), Ohio Revised Code.

Pursuant to the May 2005 Step II Consent Agreement, you agreed to certain probationary terms. Paragraph 3 requires that you shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio. Paragraph 10 requires

that you shall abstain completely 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 and psychiatric diagnosis. Paragraph 11 requires that you shall abstain completely from the use of alcohol. Paragraph 13 requires that you shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board.

- (6) Despite the requirements set forth in the May 2005 Step II Consent Agreement, after entering into the agreement, you failed to abstain from the illegal use of cocaine, failed to abstain from the use of alcohol, and failed to submit your own urine for random urine screenings for drugs and alcohol. On or about June 14, 2005, you reported to the Board's Compliance Officer that you had relapsed on cocaine a couple of months prior to your license being reinstated. You further stated that you had used cocaine on approximately four occasions with a friend's eighteen-year-old daughter, and that your friend had recently learned of your conduct. When questioned as to how your multiple uses of cocaine had not been detected through the random drug and alcohol screenings required by your monitoring agreements with the Board, you stated that you had substituted someone else's urine when submitting specimens to your supervising physician. On or about June 15, 2005, you further informed the Board's Compliance Officer that your relapse had additionally involved the use of alcohol. Further, on or about June 21, 2005, a counselor from the treatment team of Glenbeigh Hospital, a Board-approved treatment provider, informed a Board enforcement attorney that you had commenced a 72-hour inpatient evaluation on June 20, 2005; that you had reported to the treatment team that you had resumed use of cocaine during February 2005; and that you had told the treatment team you had switched urine samples when submitting your required drug and alcohol screenings to conceal your relapse. Additionally, on or about June 22, 2005, the counselor further notified the Board that you reported the date of your last use of cocaine and/or alcohol to be on or about June 3, 2005.
- (7) By letter dated June 22, 2005, Chester Prusinki, D.O., of Glenbeigh Hospital, opined that you are unable to practice according to acceptable and prevailing standards of care because of impairment due to chemical dependence, that an inpatient level of care was recommended for you, and that you had been admitted to Glenbeigh Hospital for an undetermined duration.
- (8) Although you have received treatment related to your relapse, you have not entered into and/or established compliance with a subsequent aftercare contract with a Board-approved treatment provider. In addition, the Board has not received information that you have been determined to be capable of practicing in accordance with acceptable and prevailing standards of care.
- (9) In the "Failure to Comply" provision of the May 2005 Step II Consent Agreement, you contractually agreed:

If the Secretary and Supervising Member of the Board determine that there is clear and convincing evidence that Dr. Schwachter has violated any term, condition or limitation of this Consent Agreement, Dr. Schwachter 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.

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.

Further, Rule 4731-16-02(B)(3), 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), (2), (3), (5), (6), and (7) 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 paragraph (4) 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.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (3) and (6) 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 in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

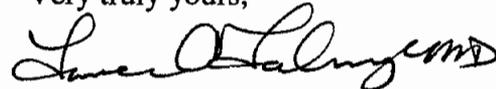
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at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

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT/blt
Enclosures

CERTIFIED MAIL # 7003 0500 0002 4340 7483
RETURN RECEIPT REQUESTED

STEP II
CONSENT AGREEMENT
BETWEEN
MARC H. SCHWACHTER, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

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

Dr. Schwachter 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 violation of Section 4731.22(B)(26), Ohio Revised Code, "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;" Section 4731.22(B)(20), Ohio Revised Code, "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;" Section 4731.22(B)(6), Ohio Revised Code, "[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;" Section 4731.22(B)(2), Ohio Revised Code, "[f]ailure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease;" Section 4731.22(B)(9), Ohio Revised Code, "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;" Section 4731.22(B)(19), Ohio Revised Code, "[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 Section 4731.22(B)(5), Ohio Revised Code, "[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.”

- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violations of Sections 4731.22(B)(19) and (B)(26), Ohio Revised Code, as set forth in Paragraph E below; the violations of Sections 4731.22(B)(5), (B)(9), (B)(19), and (B)(26), Ohio Revised Code, as set forth in the Amended Step I Consent Agreement Between Marc H. Schwachter, M.D., and the State Medical Board of Ohio, effective June 9, 2004, [June 2004 Amended Step I Consent Agreement]; and the violations as previously set forth in the Step I Consent Agreement Between Marc H. Schwachter, M.D., and the State Medical Board of Ohio, effective November 12, 2003, [November 2003 Step I Consent Agreement], of Section 4731.22(B)(26), Ohio Revised Code, Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-02(D), Ohio Administrative Code, General Provisions, and as pursuant to Rule 4731-11-02(F), a violation of Rule 4731-11-02 constitutes a violation of Sections 4731.22(B)(2) and (B)(6), Ohio Revised Code, Section 4731.22(B)(2), Ohio Revised Code, and Section 4731.22(B)(6), Ohio Revised Code. Copies of the November 2003 Step I Consent Agreement and the June 2004 Amended Step I Consent Agreement are attached hereto and incorporated herein.

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 Step II Consent 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 aforementioned violations.

- C. Dr. Schwachter is applying for reinstatement of his certificate to practice medicine and surgery in the State of Ohio, License # 35.080114, which was suspended pursuant to the aforementioned June 2004 Amended Step I Consent Agreement.
- D. Dr. Schwachter states that he is not licensed to practice medicine and surgery in any other state or jurisdiction.
- E. Dr. Schwachter admits that during or about November 2003 he entered into a Step I Consent Agreement with the Board based, in part, upon his chemical dependency, and that during or about June 2004, he entered into an Amended Step I Consent Agreement with the Board based, in part, upon Dr. Schwachter having been granted intervention in lieu of conviction of four drug-related felonies, and having been diagnosed with Bipolar Disorder, Mixed. Dr. Schwachter states, and the Board acknowledges receipt of information to support, that Edna Jones, M.D., of The Woods at Parkside, a Board-approved treatment provider, David Goldberg, D.O., of

Greene Memorial Hospital, a Board-approved treatment provider, and Dean Parmelee, M.D., Dr. Schwachter's Board-approved treating psychiatrist, have each assessed Dr. Schwachter, and that each has opined Dr. Schwachter is capable of practicing medicine and surgery according to acceptable and prevailing standards of care, subject to certain monitoring and conditions, including that he continue medication management and psychotherapy.

Dr. Schwachter further admits that during or about 2004, while his medical license was suspended, he experienced an injury that resulted in ulnar neuropathy with decreased grip strength of his dominant left hand. Dr. Schwachter states, and the Board acknowledges receipt of information to support, that David Kirschman, M.D., Dr. Schwachter's treating neurosurgeon as related to his ulnar neuropathy, has opined within a reasonable degree of medical certainty that Dr. Schwachter's condition is more of a sensory deficit than a motor deficit, that it is unclear at the present time whether the present degree of sensory deficit will be permanent or will improve, that at Dr. Schwachter's most recent clinical examination his motor strength was intact and there was no evidence of muscle wasting, and that currently he is physically capable of practicing medicine and surgery according to acceptable and prevailing standards of care, with the exception that Dr. Schwachter should initially limit his Ob-Gyn practice to office work and in-office procedures pending neurological reevaluation of his condition in six months in order to further determine his ability to resume operating room procedures.

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

LICENSURE LIMITATION:

1. Dr. Schwachter's certificate to practice medicine and surgery in the State of Ohio shall be LIMITED AND RESTRICTED as follows:

Dr. Schwachter shall limit his practice of medicine and surgery to the practice of obstetrics and gynecology, and shall further limit his practice of obstetrics and gynecology to exclude deliveries and major Ob-Gyn operative procedures. For purposes of this Consent Agreement, major Ob-Gyn operative procedures includes, but is not limited to, procedures such as tubal ligation and C-section. Dr. Schwachter may perform office-based minor Ob-Gyn surgery, meaning surgery that can be safely and comfortably performed

under topical anesthesia without more than minimal oral or intramuscular preoperative sedation. For purposes of this Consent Agreement, minor Ob-Gyn surgery includes, but is not limited to, procedures such as colposcopy, D&C, biopsy, breast aspiration, artificial insemination, HSG, LEEP, and hysteroscopy.

2. The Board shall not consider modification or elimination of the aforementioned licensure limitation until on or after September 30, 2005, and until all of the following conditions are met:
 - a. Dr. Schwachter shall demonstrate to the satisfaction of the Board that he can resume unrestricted, or less restricted, 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. A written report indicating that Dr. Schwachter's ability to practice medicine and surgery, as related to his ulnar neuropathy, has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. The report shall be made by Dr. Schwachter's treating neurosurgeon, David Kirschman, M.D., or another physician knowledgeable in the area of neurological surgery who has been approved in advance by the Board to provide an assessment of Dr. Schwachter. Prior to the assessment, Dr. Schwachter shall provide the evaluator with copies of patient records from any evaluations and/or treatment that he has received related to his ulnar neuropathy, and a copy of this Consent Agreement. The report from the evaluator shall include any recommendations for treatment, monitoring, or supervision of Dr. Schwachter and any conditions, restrictions, or limitations that should be imposed on Dr. Schwachter's practice. The reports shall also describe the basis for the evaluator's determinations.
 - ii. The report required pursuant to this paragraph shall be based upon an examination occurring within the three months immediately preceding any request by Dr. Schwachter for modification or elimination of the aforementioned licensure limitation.
 - b. In the event that Dr. Schwachter has not been engaged in the active practice of deliveries and/or major Ob-Gyn operative procedures for a period in excess of two years prior to the elimination of the aforementioned licensure limitation, or the modification of it to allow his performance of deliveries and/or major Ob-Gyn operative procedures, the Board may exercise its discretion to require additional evidence of Dr. Schwachter's fitness to resume performing deliveries and/or major Ob-Gyn operative procedures, including but not limited to,

requiring Dr. Schwachter to obtain additional training and/or education, and to pass an examination upon the completion of such training and/or education.

PROBATIONARY TERMS:

3. Dr. Schwachter shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
4. Dr. Schwachter 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 June 2004 Amended 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.
5. Dr. Schwachter 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 June 2004 Amended 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.
6. Dr. Schwachter 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.
7. In the event Dr. Schwachter 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.

Drug Associated Restrictions

8. Dr. Schwachter 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. Schwachter's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Schwachter shall

make his patient records with regard to such prescribing available for review by an agent of the Board upon request.

9. Dr. Schwachter shall not, without prior Board approval, administer, personally furnish, or possess (except as allowed under Paragraph 10 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. Schwachter to administer or personally furnish controlled substances, Dr. Schwachter 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. Schwachter's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Schwachter 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

10. Dr. Schwachter 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. Schwachter's history of chemical dependency and psychiatric diagnosis.
11. Dr. Schwachter shall abstain completely from the use of alcohol.

Psychiatric Treatment

12. Dr. Schwachter and the Board agree that the person previously approved by the Board to serve as Dr. Schwachter's treating psychiatrist pursuant to the June 2004 Amended Step I Consent Agreement is hereby approved to continue as Dr. Schwachter's designated treating psychiatrist under this Consent Agreement, unless within thirty days of the effective date of this Consent Agreement, Dr. Schwachter shall submit to the Board for its prior approval the name and qualifications of an alternative psychiatrist of his choice.

Dr. Schwachter shall undergo and continue psychiatric treatment at least once each week for a period of eight weeks following the effective date of this Consent Agreement and at least once every two weeks thereafter, or as otherwise directed by the Board. Dr. Schwachter shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered for his psychiatric disorder. Dr. Schwachter 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. Schwachter's current treatment plan and any changes that have been made to the treatment plan since the

prior report; Dr. Schwachter's compliance with his treatment plan; Dr. Schwachter's mental status; Dr. Schwachter's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Schwachter 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. Schwachter is unable to practice due to his psychiatric disorder. It is Dr. Schwachter's responsibility to ensure that quarterly reports are received in the Board's offices no later than the due date for Dr. Schwachter's quarterly declaration.

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

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

Drug and Alcohol Screens/Supervising Physician

13. Dr. Schwachter shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Schwachter 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. Schwachter shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

Dr. Schwachter and the Board agree that the person or entity previously approved by the Board to serve as Dr. Schwachter's supervising physician pursuant to the June 2004 Amended Step I Consent Agreement is hereby approved to continue as Dr. Schwachter's designated supervising physician under this Consent Agreement, unless within thirty days of the effective date of this Consent Agreement, Dr. Schwachter submits to the Board for its prior approval the name and curriculum vitae of an alternative supervising physician to whom Dr. Schwachter 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. Schwachter. Dr. Schwachter 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. Schwachter's designated supervising physician, or to withdraw approval of any person or entity previously approved to serve as Dr. Schwachter'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. Schwachter 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. Schwachter must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Schwachter 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. Schwachter's quarterly declaration. It is Dr. Schwachter's responsibility to ensure that reports are timely submitted.

14. The Board retains the right to require, and Dr. Schwachter agrees to submit, blood or urine specimens for screenings for drugs and alcohol, for analysis of medications that may be prescribed to Dr. Schwachter, or for any other purpose, at Dr. Schwachter's expense upon the Board's request and without prior notice. Dr. Schwachter's refusal to submit a blood or urine specimen upon request of the Board shall result in a minimum of one year of actual license suspension.

Monitoring Physician

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

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

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

16. Within thirty days of the effective date of this Consent Agreement, Dr. Schwachter 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, of which at least one meeting per week shall be a Caduceus meeting. Substitution of any other specific program must receive prior Board approval.

Dr. Schwachter 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. Schwachter's quarterly declarations.

Aftercare / Physicians Health Program

17. Dr. Schwachter shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, The Woods at Parkside, and with his advocacy contract with the Ohio Physicians Health Program (formerly known as the Ohio Physicians Effectiveness Program), or another physician health program approved in advance by the Board, provided that, where terms of the aftercare contract and/or advocacy contract conflict with terms of this Consent Agreement, the terms of this Consent Agreement shall control.

Releases

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

REQUIRED REPORTING BY LICENSEE:

19. Within thirty days of the effective date of this Consent Agreement, Dr. Schwachter 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. Schwachter 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.
20. Within thirty days of the effective date of this Consent Agreement, Dr. Schwachter 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. Schwachter 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 for reinstatement of any professional license. Further, Dr. Schwachter shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
21. Dr. Schwachter shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Schwachter chemical dependency treatment or monitoring.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Schwachter 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. Schwachter has violated any term, condition or limitation of this Consent Agreement, Dr. Schwachter 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. Schwachter may request, and the Board may grant or deny, modification or elimination of the licensure limitation contained in paragraph 1 of this agreement at any time, consistent with the terms, limitations, and conditions as set forth in paragraph 2 herein. Dr. Schwachter shall not request termination of this Consent Agreement for a minimum of five years or until such time as the licensure limitation contained in paragraph 1 of this agreement is eliminated, whichever is later, and shall not request modification to the probationary terms, limitations, and conditions contained in this Consent Agreement for at least one year. Otherwise, the remaining 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. Schwachter 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. Schwachter 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. Schwachter acknowledges that his social

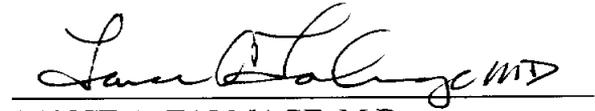
security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

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.



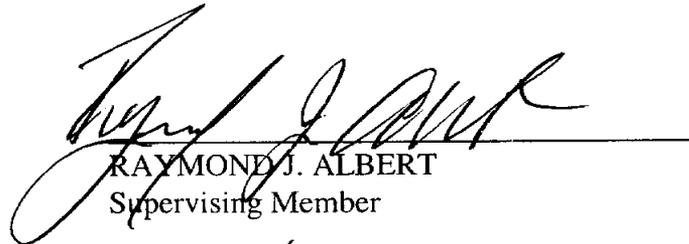
MARC H. SCHWACHTER, M.D.



LANCE A. TALMAGE, M.D.
Secretary

5/16/05
DATE

5-19-05
DATE



RAYMOND J. ALBERT
Supervising Member

5/19/05
DATE



REBECCA J. MARSHALL, ESQ.
Enforcement Attorney

May 16, 2005
DATE

**AMENDED STEP I
CONSENT AGREEMENT
BETWEEN
MARC H. SCHWACHTER, M.D.,
AND
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Schwachter 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 violation of Section 4731.22(B)(26), Ohio Revised Code, “impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;” Section 4731.22(B)(20), Ohio Revised Code, “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;” Section 4731.22(B)(6), Ohio Revised Code, “[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;” Section 4731.22(B)(2), Ohio Revised Code, “[f]ailure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease;” Section 4731.22(B)(9), Ohio Revised Code, “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;” Section 4731.22(B)(19), Ohio Revised Code, “[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)(5), Ohio Revised Code, "[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."

- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Sections 4731.22(B)(5), (B)(9), (B)(19), and (B)(26), Ohio Revised Code, as set forth in Paragraph E below, and based upon the violations as previously set forth in Paragraph E of the Step I Consent Agreement Between Marc H. Schwachter, M.D., and the State Medical Board of Ohio, effective November 12, 2003, [November 2003 Step I Consent Agreement] of Section 4731.22(B)(26), Ohio Revised Code; Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-02(D), Ohio Administrative Code, General Provisions; and as pursuant to Rule 4731-11-02(F), a violation of Rule 4731-11-02 constitutes a violation of Sections 4731.22(B)(2) and (B)(6), Ohio Revised Code, Section 4731.22(B)(2), Ohio Revised Code, and Section 4731.22(B)(6), Ohio Revised Code. A copy of the November 2003 Step I Consent Agreement is attached hereto and incorporated herein. 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 Amended Step I Consent Agreement.
- C. Dr. Schwachter's license to practice medicine and surgery in the State of Ohio, License # 35-080114, is currently suspended for an indefinite period of time, but not less than 270 days from the effective date of the November 2003 Step I Consent Agreement or until such time as any and all criminal charges related to Paragraph E of the November 2003 Step I Consent Agreement have been fully and finally resolved in Montgomery County, Ohio, whichever is later.
- D. Dr. Schwachter states that he is not licensed to practice medicine or surgery in any other state or jurisdiction.
- E. Dr. Schwachter admits that after entering treatment for chemical dependency at Parkside Behavioral Healthcare, a Board approved treatment provider in Columbus, Ohio, on or about October 21, 2003, he was discharged on or about November 18, 2003, in-patient treatment complete. Dr. Schwachter further admits that, thereafter, he undertook intensive out-patient treatment for chemical dependency at Parkside Behavioral Healthcare from on or about November 18, 2003, through on or about February 20, 2004.

Dr. Schwachter further admits that in addition to his abuse of alcohol and Adderall as set forth in the November 2003 Step I Consent Agreement, he also was engaged in the illegal use of cocaine during or about 1999-2000 while in residency training, and that

he avoided detection by his residency training program by his acts of deceptively submitting urine obtained from another resident, which Dr. Schwachter purported to be his own urine when submitting a urine sample for drug screening. Dr. Schwachter further admits that on or about July 20, 2001, when he submitted to the Board his initial application to practice medicine, he falsely provided a negative answer to Question 25 that asked, "Are you currently engaged in the illegal use of controlled substances?" when, in fact, he was at that time currently engaged in the illegal use of cocaine based upon the term "currently" being specifically defined in the application as including any such activity that had occurred within the past two years.

Dr. Schwachter further admits that on or about December 11, 2003, in the Common Pleas Court of Montgomery County, Ohio, he entered pleas of guilty to four drug-related felonies, including two counts of Illegal Processing of Drug Documents, in violation of Section 2925.23, Ohio Revised Code, and two counts of Deception to Obtain a Dangerous Drug, in violation of 2925.22, Ohio Revised Code, related to his acts to obtain controlled substances for self-use as previously referenced in Paragraph E of the November 2003 Step I Consent Agreement, for which the court granted Dr. Schwachter's request for intervention in lieu of conviction. Dr. Schwachter further attests that any and all criminal charges against him in Montgomery County, Ohio, are now fully and finally resolved.

Dr. Schwachter further admits that based upon his history of experiencing severe mood swings and hypomanic symptoms, he was diagnosed with Bipolar Disorder, Mixed, on or about January 14, 2004. Dr. Schwachter further admits that he remains under the care of a physician for his condition, for which he is currently prescribed Depakote and Prozac.

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. Schwachter knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

SUSPENSION OF CERTIFICATE

1. The November 2003 Step I Consent Agreement that SUSPENDED Dr. Schwachter's certificate to practice medicine and surgery for an indefinite period of time, but not less than 270 days or until such time as any and all criminal charges have been fully and finally resolved in Montgomery County, Ohio, whichever is later, is hereby TERMINATED upon the effective date of the instant Amended Step I Consent Agreement. Further, the certificate of Dr. Schwachter to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, and in any event shall remain SUSPENDED until at least December 31, 2004.

Sobriety

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

Releases; Quarterly Declarations and Appearances

4. Dr. Schwachter 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. Schwachter'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. Schwachter 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. Schwachter 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 November 2003 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.
6. Dr. Schwachter 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 November 2003 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.

Drug & Alcohol Screens; Supervising Physician

7. Dr. Schwachter shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Schwachter 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. Schwachter 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. Schwachter shall notify the Board in writing of his request that the supervising physician previously approved by the Board pursuant to the November 2003 Step I Consent Agreement be allowed to continue as his supervising physician under this agreement, or alternatively, Dr. Schwachter shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Dr. Schwachter 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. Schwachter. Dr. Schwachter 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. Schwachter 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. Schwachter must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Schwachter 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. Schwachter's quarterly declaration. It is Dr. Schwachter's responsibility to ensure that reports are timely submitted.

Psychiatric Treatment

8. Within thirty days of the effective date of this Consent Agreement, Dr. Schwachter 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. Schwachter shall undergo

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

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

Rehabilitation Program

9. Dr. Schwachter shall continue to 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. Schwachter 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. Schwachter's quarterly declarations.

CONDITIONS FOR REINSTATEMENT

10. In no event shall the Board consider reinstatement of Dr. Schwachter's certificate to practice medicine and surgery until after December 31, 2004. Further, the Board shall not consider reinstatement of Dr. Schwachter's certificate to practice medicine and surgery until all of the following conditions are met:

- a. Dr. Schwachter shall submit an application for reinstatement, accompanied by appropriate fees, if any.
- b. Dr. Schwachter 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. Schwachter has successfully completed any required inpatient treatment.
 - 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. Three written reports indicating that Dr. Schwachter's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. Prior to the assessments, Dr. Schwachter 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. Schwachter, and any conditions, restrictions, or limitations that should be imposed on Dr. Schwachter's practice. The reports shall also describe the basis for the evaluator's determinations.

Two of the written 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. Schwachter, each of whom shall conduct an evaluation of Dr. Schwachter regarding his chemical dependency status.

One of the written reports shall be made by the treating psychiatrist referenced in Paragraph 8 of this Consent Agreement, who shall conduct an evaluation of Dr. Schwachter regarding his psychiatric status.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement, but not sooner than October 1, 2004.

- v. Dr. Schwachter shall provide documentation acceptable to the Board verifying his successful completion of a Continuing Medical Education course on appropriate prescribing and a Continuing Medical Education course on medical recordkeeping. The exact number of hours and the specific content of the courses shall be subject to the prior approval of the Board or its designee but in no event shall be less than a combined total of forty hours. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for licensure renewal for the Continuing Medical Education acquisition period(s) in which they are completed.
- c. Dr. Schwachter shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board or, if the Board and Dr. Schwachter are unable to agree on the terms of a written Consent Agreement, then Dr. Schwachter 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. Schwachter'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. Schwachter 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. Schwachter has maintained sobriety.

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

REQUIRED REPORTING BY LICENSEE

- 12. Within thirty days of the effective date of this Consent Agreement, Dr. Schwachter 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. Schwachter 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. Schwachter shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

13. Within thirty days of the effective date of this Consent Agreement, Dr. Schwachter 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. Schwachter 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, Dr. Schwachter 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. Schwachter 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. Schwachter 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, and may be reported to appropriate organizations, data banks, and governmental bodies. Dr. Schwachter agrees to provide his social security number to the Board and hereby authorizes the Board to utilize that number in conjunction with that reporting.

The Step I Consent Agreement Between Marc H. Schwachter, M.D., and the State Medical Board of Ohio, effective November 12, 2003, shall be terminated upon the last date of signature below, concurrent with this Consent Agreement becoming effective. Further, this Consent Agreement, upon becoming effective, shall contain the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Consent Agreement.

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.



MARC H. SCHWACHTER, M.D.

5/25/04

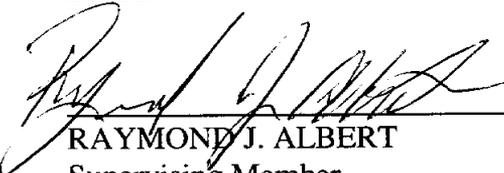
DATE



LANCE A. TALMAGE, M.D.
Secretary

6-9-04

DATE



RAYMOND J. ALBERT
Supervising Member

6/9/04

DATE



REBECCA J. MARSHALL, ESQ.
Enforcement Attorney

May 26, 2004

DATE

STEP I
CONSENT AGREEMENT
BETWEEN
MARC H. SCHWACHTER, M.D.,
AND
THE STATE MEDICAL BOARD OF OHIO

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

Dr. Schwachter 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 violation of Section(s) 4731.22(B)(26), Ohio Revised Code, "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;" Section 4731.22(B)(20), Ohio Revised Code, "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;" Section 4731.22(B)(6), Ohio Revised Code, "[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;" and/or Section 4731.22(B)(2), Ohio Revised Code, "[f]ailure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violations, as set forth in Paragraph E below, of Section 4731.22(B)(26),

Ohio Revised Code; Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-02(D), Ohio Administrative Code, General Provisions; and as pursuant to Rule 4731-11-02(F), a violation of Rule 4731-11-02 constitutes a violation of Sections 4731.22(B)(2) and (B)(6), Ohio Revised Code, Section 4731.22(B)(2), Ohio Revised Code, and Section 4731.22(B)(6), Ohio Revised Code. 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. Such express reservation includes, but is not limited to, the right to institute formal proceedings based upon any violation(s) related to patient care or involving criminal acts or convictions, regardless of whether the acts underlying such additional violation(s) are described herein and/or related to the violations of Section 4731.22(B)(26), Ohio Revised Code, Section 4731.22(B)(20), Ohio Revised Code, to wit: Rules 4731-11-02(D) and 4731-11-02(F), Ohio Administrative Code, and/or Sections 4731.22(B)(2) and (B)(6), Ohio Revised Code, set forth in Paragraph E below.

Dr. Schwachter states and acknowledges that he understands the Board intends to pursue by separate action violations beyond Section 4731.22(B)(26), Ohio Revised Code, Section 4731.22(B)(20), Ohio Revised Code, to wit: Rules 4731-11-02(D) and 4731-11-02(F), Ohio Administrative Code, and Sections 4731.22(B)(2) and (B)(6), Ohio Revised Code, including but not limited to violations of Sections 4731.22(B)(9) and/or 4731.22(B)(10), Ohio Revised Code, even if such violations are described herein and/or arise from the same common nucleus of operative fact as outlined within this Consent Agreement addressing the issues of Dr. Schwachter's chemical impairment, rules violations, and violations of Sections 4731.22(B)(2) and (B)(6), Ohio Revised Code, pursuant to such rule violations. Dr. Schwachter further states and acknowledges that subsequent Board Orders and/or Consent Agreements related to such violations may supersede this Step I Consent Agreement and may result in further discipline.

- C. Dr. Schwachter is licensed to practice medicine and surgery in the State of Ohio, License # 35-080114.
- D. Dr. Schwachter states that he is not licensed to practice medicine or surgery in any other state or jurisdiction.
- E. Dr. Schwachter admits that on or about October 21, 2003, he entered treatment for chemical dependence at Parkside Behavioral Healthcare, a Board approved treatment provider in Columbus, Ohio, and that such treatment remains ongoing at this time. Dr. Schwachter attests that he has never before received treatment for chemical dependence, and admits to the abuse of alcohol and Adderall. Dr. Schwachter further admits that during the past several years he has intermittently undergone

psychological counseling and that he is currently prescribed Prozac for the treatment of depression.

Dr. Schwachter further admits that during or about 2001, a female family friend asked him to write her a prescription for Adderall, which she stated had been previously prescribed to her for the treatment of Attention Deficit Hyperactivity Disorder by her former psychiatrist. Dr. Schwachter further admits that he issued such prescription for Adderall, as requested, without personally conducting an examination or evaluation of the friend or reviewing her prior medical records, and that he failed to complete and maintain a medical record reflecting the diagnosis and purpose for which such controlled substance was being utilized. Dr. Schwachter further admits that on one occasion, he asked for and received from this friend some portion of the Adderall tablets he had prescribed to her. Dr. Schwachter further admits that during or about March 2002, he entered into a formal doctor-patient relationship with this friend when she sought medical treatment with him through his Ob-Gyn practice, and that such doctor-patient relationship continues to date.

Dr. Schwachter admits that within the past year he has prescribed oxycodone to a family member, which he claims was for an emergency situation. Dr. Schwachter further admits that he issued such prescriptions without personally conducting any examination or evaluation of the family member. Dr. Schwachter further admits that he failed to complete and maintain a medical record reflecting the diagnosis and purpose for which such controlled substance was being utilized.

Dr. Schwachter further admits he has recently learned that representatives of state licensing authorities had investigated certain alleged acts related to his drug-seeking behavior, which resulted in him being criminally charged on or about October 28, 2003, in Montgomery County, Ohio, with Illegal Processing of Drug Documents, in violation of Section 2925.23(B), Ohio Revised Code. Dr. Schwachter further admits that such criminal matter currently remains pending, and further states and acknowledges that his license may be subject to additional discipline for any violations of Chapter 4731. of the Ohio Revised Code, including pursuant to Sections 4731.22(B)(9) or (B)(10), Ohio Revised Code, based upon such alleged acts and/or the aforementioned criminal matter, whether occurring before or after the effective date of this Consent Agreement and regardless of whether the information related to such events is currently known or unknown to 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, Dr. Schwachter knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

SUSPENSION OF CERTIFICATE

1. The certificate of Dr. Schwachter to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than 270 days or until such time as any and all criminal charges related to Paragraph E above have been fully and finally resolved in Montgomery County, Ohio, whichever is later.

Sobriety

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

Releases; Quarterly Declarations and Appearances

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

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

Rehabilitation Program

8. Within thirty days of the effective date of this Consent Agreement, Dr. Schwachter 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. Schwachter 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. Schwachter's quarterly declarations.

CONDITIONS FOR REINSTATEMENT

9. The Board shall not consider reinstatement of Dr. Schwachter's certificate to practice medicine and surgery until all of the following conditions are met:
- a. Dr. Schwachter shall submit an application for reinstatement, accompanied by appropriate fees, if any.
 - b. Dr. Schwachter 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. Schwachter has successfully completed any required inpatient treatment.
 - 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. Schwachter'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. Schwachter. Prior to the assessments, Dr. Schwachter 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. Schwachter, and any conditions, restrictions, or limitations that should be imposed on Dr. Schwachter'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.

- v. Dr. Schwachter shall provide documentation acceptable to the Board verifying his successful completion of a Continuing Medical Education course on appropriate prescribing and a Continuing Medical Education course on medical recordkeeping. The exact number of hours and the specific content of the courses shall be subject to the prior approval of the Board or its designee but in no event shall be less than a combined total of forty hours. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for licensure renewal for the Continuing Medical Education acquisition period(s) in which they are completed.

- c. Dr. Schwachter shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board or, if the Board and Dr. Schwachter are unable to agree on the terms of a written Consent Agreement, then Dr. Schwachter 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. Schwachter'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. Schwachter 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. Schwachter has maintained sobriety.

10. In the event that Dr. Schwachter 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. Schwachter's fitness to resume practice.

REQUIRED REPORTING BY LICENSEE

11. Within thirty days of the effective date of this Consent Agreement, Dr. Schwachter 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. Schwachter 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. Schwachter shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
12. Within thirty days of the effective date of this Consent Agreement, Dr. Schwachter 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. Schwachter 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, Dr. Schwachter 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. Schwachter 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.

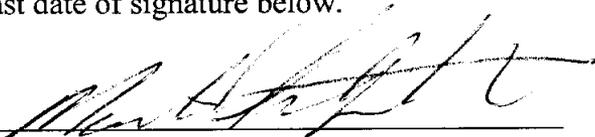
Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

Dr. Schwachter 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, and may be reported to appropriate organizations, data banks, and governmental bodies. Dr. Schwachter agrees to provide his social security number to the Board and hereby authorizes the Board to utilize that number in conjunction with that reporting.

EFFECTIVE DATE

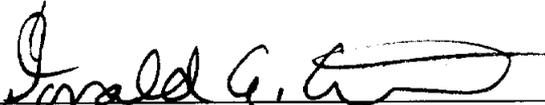
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.



MARC H. SCHWACHTER, M.D.

11/10/03

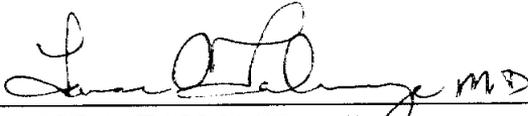
DATE



DONALD A. ANTRIM, ESQ.
Attorney for Dr. Schwachter

11/10/03

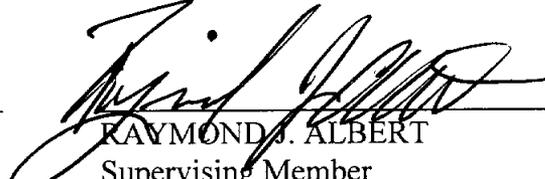
DATE



LANCE A. TALMAGE, M.D.
Secretary

11-12-03

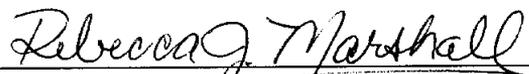
DATE



RAYMOND J. ALBERT
Supervising Member

11/12/03

DATE



REBECCA J. MARSHALL, ESQ.
Enforcement Attorney

11/12/03

DATE