

JAN 23 2004

**PROBATIONARY CONSENT AGREEMENT
BETWEEN
ANTHONY EMMANUEL DANIACHEW, M.D.,
AND
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Daniachew 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)(19), 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 “[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.”
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(19), Ohio Revised Code, as set forth in Paragraph E below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement.
- C. On or about March 26, 2003, Dr. Daniachew submitted an application for a license to practice medicine and surgery in the State of Ohio. Such application remains pending to date.
- D. Dr. Daniachew states that he is not licensed to practice medicine and surgery in any other state or jurisdiction.

JAN 23 2004

- E. Dr. Daniachew admits that during or about June 2002, he submitted to the Board information indicating that due to his psychological problems, he was unable to successfully pass the USMLE Step 1, Step 2, and Step 3 clinical examinations within a seven year period, as required by Rule 4731-6-14(C)(3), Ohio Administrative Code. Dr. Daniachew further admits that based upon information provided to the Board by his treating psychologist, which indicated that Dr. Daniachew has the diagnosis of Adjustment Disorder with Mixed Emotional Features and that he experiences episodic bouts of depression and anxiety that are normally manageable, but become unmanageable during unusual conditions of stress, the Board granted Dr. Daniachew an extension of time to successfully pass the USMLE examinations. Dr. Daniachew further admits that the aforementioned condition contributed to significant delays and disruptions in his medical education and post-graduate training.

Dr. Daniachew further admits that on or about December 4, 2003, he underwent a Board-ordered psychiatric evaluation, which resulted in a determination that Dr. Daniachew has the diagnosis of Generalized Anxiety Disorder. Dr. Daniachew further admits that the evaluating psychiatrist opined that because a component of Dr. Daniachew's disorder is difficulty concentrating, he is likely to make errors due to poor concentration, and further opined that the fact Dr. Daniachew's anxiety is sometimes so severe as to immobilize him indicates that his judgment and ability to assess and treat patients would be significantly impaired during those episodes. Dr. Daniachew further admits that the evaluating psychiatrist opined within a reasonable degree of medical certainty that, at times, Dr. Daniachew is incapable of practicing medicine according to acceptable and prevailing standards of care due to his Generalized Anxiety Disorder, and that his condition is amenable to treatment. Dr. Daniachew further admits that the evaluating psychiatrist recommended that if he is to continue practicing medicine, Dr. Daniachew should receive medication management by a qualified psychiatrist for his Generalized Anxiety Disorder, undergo outpatient psychotherapy with a qualified psychologist for at least one hour every two weeks until his anxiety symptoms are more manageable, be compliant with all prescribed medications, and consent to his treating psychiatrist and psychologist providing regular updates on his condition 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. Daniachew shall be GRANTED a certificate to practice medicine and surgery in the State of Ohio, upon receipt of all necessary and appropriate documentation, and that Dr. Daniachew knowingly and voluntarily agrees with the Board to the following PROBATIONARY terms, conditions and limitations:

1. Dr. Daniachew shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.

JAN 23 2004

2. Dr. Daniachew shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Consent Agreement becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. Dr. Daniachew 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.
4. In the event that Dr. Daniachew should leave Ohio for three continuous months, or reside or practice outside the State, Dr. Daniachew must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this period under this Consent Agreement, unless otherwise determined by motion of the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.
5. In the event Dr. Daniachew is found by the Secretary of the Board to have failed to comply with any provision of this Consent Agreement, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Consent Agreement.

MONITORING AND TREATMENT

Psychiatric and Psychological Treatment

6. Within thirty days of the effective date of this Consent Agreement, Dr. Daniachew shall submit to the Board for its prior approval the names and qualifications of a psychiatrist and a psychologist of his choice. Upon approval by the Board, Dr. Daniachew shall undergo and continue psychiatric treatment with his psychiatrist at least once every twelve weeks and psychological treatment with his psychologist for at least one hour every two weeks, or as otherwise directed by the Board.

Dr. Daniachew shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered for his psychiatric disorder. Dr. Daniachew 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. Daniachew's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr.

JAN 23 2004

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

Dr. Daniachew shall comply with his psychological treatment plan, and shall ensure that his psychologist coordinates his therapy with Dr. Daniachew's treating psychiatrist at least quarterly, or as otherwise directed by the Board. Dr. Daniachew shall ensure that psychological reports are forwarded by his treating psychologist to the Board on a quarterly basis, or as otherwise directed by the Board. The psychological reports shall contain information describing Dr. Daniachew's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Daniachew's compliance with his treatment plan; Dr. Daniachew's mental status; Dr. Daniachew's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Daniachew shall ensure that his treating psychologist immediately notifies the Board of his failure to comply with his psychological treatment plan and/or any determination that Dr. Daniachew is unable to practice due to his psychological disorder. It is Dr. Daniachew's responsibility to ensure that quarterly reports are received in the Board's offices no later than the due date for Dr. Daniachew's quarterly declaration.

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

7. The Board retains the right to require, and Dr. Daniachew agrees to submit, blood or urine specimens for analysis at Dr. Daniachew's expense as directed by his treating psychiatrist or upon the Board's request and without prior notice, for levels of any medication that is prescribed for his psychiatric disorder, or for any other purpose. Dr. Daniachew'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. Such specimens shall be obtained by or under the direction and supervision of a representative designated by the Board, or Dr. Daniachew's treating psychiatrist or another physician approved in advance by the Board.

JAN 23 2004

Monitoring Physician

8. Within thirty days of the effective date of this Consent Agreement, Dr. Daniachew 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. Daniachew and who is engaged in the same or similar practice specialty.

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

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

While Dr. Daniachew participates in a residency program accredited by the ACGME, the Board shall accept a quarterly statement from the director of Dr. Daniachew's residency program addressing Dr. Daniachew's performance (clinical and otherwise) in the residency program, as well as his progress and status, if timely submitted, as satisfaction of the requirements of this paragraph. Should Dr. Daniachew desire to utilize this option in lieu of having a monitoring physician while he participates in a residency program, Dr. Daniachew shall so notify the Board by providing a writing, signed by both himself and his residency director, to the Board within thirty days of the effective date of this Consent Agreement. Further, should Dr. Daniachew cease participation in an accredited residency or should he desire to practice outside a residency pursuant to the Practice Plan / Employment Restrictions outlined in paragraph 9 below, or should his residency director become unable or unwilling to serve, Dr. Daniachew must immediately so notify the Board in writing and make arrangements for a monitoring physician as discussed above.

JAN 23 2004

All residency director reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Daniachew's quarterly declaration. It is Dr. Daniachew's responsibility to ensure that reports are timely submitted.

Practice Plan / Employment Restriction

9. Dr. Daniachew shall not engage in solo practice during the duration of this Consent Agreement and shall obtain the approval of the Board for any medical practice or employment related to the health care fields. Dr. Daniachew shall not engage in the practice of medicine, other than continuation of his current residency training program, unless and until such time that the Board has approved a practice plan, and thereafter, Dr. Daniachew's practice of medicine shall be only in accordance with such practice plan. The Board shall consider, among other factors, the adequacy and continuity of supervision, which will ensure the protection of the public, prior to approval or disapproval of the proposed employment. Further, Dr. Daniachew shall submit a revised practice plan to the Board and obtain the prior approval of the Board should he desire modification to any previously approved practice plan(s).

Further, during the time period(s) in which Dr. Daniachew is affiliated with a residency training program, Dr. Daniachew shall not engage in any other employment as a physician.

Releases

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

Required Reporting by Licensee

11. Within thirty days of the effective date of this Consent Agreement, Dr. Daniachew 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. Daniachew 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.
12. Within thirty days of the effective date of this Consent Agreement, Dr. Daniachew shall provide a copy of this Consent Agreement by certified mail, return receipt

JAN 23 2004

requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Daniachew 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. Daniachew shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Daniachew 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. Daniachew has violated any term, condition or limitation of this Consent Agreement, Dr. Daniachew 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. Daniachew shall not request termination of this Consent Agreement for a minimum of five years. In addition, Dr. Daniachew shall not request modification to the probationary terms, limitations, and conditions contained herein for at least one year. Otherwise, the above-described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

ACKNOWLEDGMENTS/LIABILITY RELEASE

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

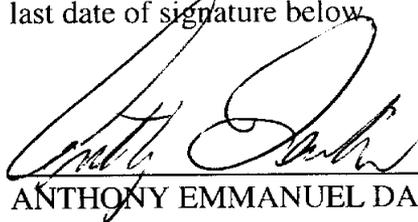
This Consent Agreement shall be considered a public record as that term is used in Section

JAN 23 2004

149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Dr. Daniachew 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

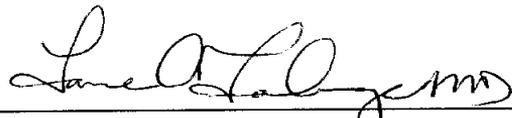
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.



ANTHONY EMMANUEL DANIACHEW, M.D.

DATE

1/22/04

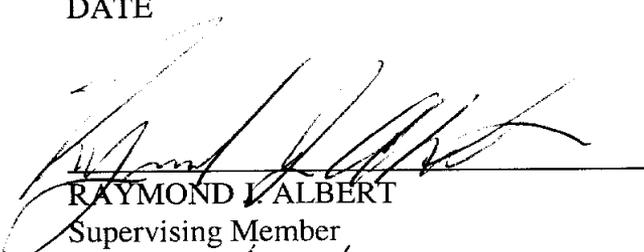


LANCE A. TALMAGE, M.D.

Secretary

DATE

2-11-04



RAYMOND L. ALBERT

Supervising Member

DATE

2/11/04



REBECCA J. MARSHALL, ESQ.

Enforcement Attorney

DATE

January 27, 2004