

**CONSENT AGREEMENT
BETWEEN
DAVID EDWARD MCMCLOUGHLIN, III, M.D.,
AND
THE STATE MEDICAL BOARD OF OHIO**

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

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

BASIS FOR ACTION

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

- A. The Board is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for a violation of Section 4731.22(B)(19), Ohio Revised Code, for an “[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(s) E through H, 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. Additionally, Dr. McLoughlin states and acknowledges he understands that the Board intends to pursue by separate action any violations related to Section 4731.22(B)(19), Ohio Revised Code, beyond those specifically described herein should his physical or cognitive status change in the future, even if such violations arise from the same common nucleus of operative fact as outlined within this Consent Agreement addressing the issue of Dr. McLoughlin’s current disabilities. Dr. McLoughlin further states and acknowledges that he understands that subsequent Board Orders may

supersede this Consent Agreement and may result in further discipline, up to and including permanent revocation of his license to practice medicine in Ohio.

- C. Dr. McLoughlin is licensed to practice medicine and surgery in the State of Ohio, license number 35.084126; however, such certificate became inactive on July 1, 2008, due to non-renewal. Further, Dr. McLoughlin acknowledges and agrees that all terms, conditions, and limitations set forth in this Consent Agreement shall apply regardless of whether or not his certificate is renewed, reinstated, and/or restored in the future.
- D. Dr. McLoughlin states that he was also licensed to practice medicine and surgery in the States of New York, Pennsylvania, and Texas; however those licenses are currently inactive.
- E. Dr. McLoughlin admits that on or about January 21, 2006, he suffered a cerebrovascular accident [stroke]. Dr. McLoughlin admits that as a direct result of this stroke he continues to remain on disability with his insurance carrier and has been diagnosed and treated for several physical and mental conditions, including, diplopia, incoordination, loss of fine motor skills, and impairment of short term memory. Dr. McLoughlin acknowledges that while there has been improvement in his physical and mental condition since the stroke; his motor skills, cognitive abilities, short term memory loss, and vision are limited to a sufficient degree to prohibit him from engaging in the unrestricted practice of medicine and surgery. Dr. McLoughlin further admits that he has not been actively engaged in the clinical practice of medicine and surgery since on or about January 21, 2006.
- F. Dr. McLoughlin admits that on or about March 4, 2009, he submitted to an initial Board-ordered forensic psychiatric evaluation by Stephen Noffsinger, M.D., who deferred rendering a final expert opinion and requested that the Board require Dr. McLoughlin to undergo certain neuropsychological testing for Dr. Noffsinger's subsequent consideration and review.
- G. Dr. McLoughlin further admits that on or about July 27, 2009, he submitted to a Board-ordered evaluation by Richard Naugle, Ph.D., for neuropsychological assessment, which reflected significant visuospatial memory problems, mild difficulty with timed figural fluency, and very slow visuomotor processing speed. As a result, Dr. Naugle subsequently provided a report to the Board in which he opined that Dr. McLoughlin was unable to practice medicine and surgery by reason of cognitive compromise. Dr. Naugle noted that Dr. McLoughlin's medical records stated in February 2008 that although his disability was regarded to be permanent, continued improvement was expected; however, Dr. Naugle opined that since Dr. McLoughlin's stroke occurred several years ago and he has already completed a course of

rehabilitation, it is unlikely that he will demonstrate significant improvements in the future.

- H. Dr. McLoughlin acknowledges that the Board provided the report of Dr. Naugle's neuropsychological evaluation of Dr. McLoughlin to Dr. Noffsinger, in addition to Dr. McLoughlin's comprehensive medical records and an informational letter summarizing his post-stroke progress written by Dr. McLoughlin's treating primary care physician. Thereafter, on or about September 16, 2009, Dr. Noffsinger provided a written report to the Board in which he opined to a reasonable degree of medical certainty that Dr. McLoughlin is currently not capable of practicing clinical medicine in accordance with acceptable and prevailing standards of care. Further, Dr. Noffsinger opined that due to compromised executive functioning, problems with memory, and visual limitations, Dr. McLoughlin should not be responsible for direct patient care because his cognitive problems are likely to interfere with his ability to reliably diagnose and treat patients safely, and to reliably and accurately make clinical decisions. However, Dr. Noffsinger additionally opined that Dr. McLoughlin is capable of practicing non-clinical medicine, such as administrative medicine or medical teaching, subject to certain conditions and limitations.

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

PERMANENT LICENSURE RESTRICTIONS; APPROVAL OF EMPLOYMENT:

1. Dr. McLoughlin's certificate to practice medicine and surgery shall be permanently restricted as follows:

Dr. McLoughlin shall limit and restrict his practice of medicine and surgery in Ohio to academic or administrative work that is non-clinical and does not involve patient contact; Dr. McLoughlin shall not prescribe any medications, dangerous drugs, or controlled substances to any individual; and Dr. McLoughlin shall not render decisions that are determinative of the treatment received or denied to any patient under the care of other practitioners. Examples of types of work that would remain permissible for Dr. McLoughlin to undertake, subject to the above conditions, include medical education and administrative medicine.

Further, prior to undertaking any such practice, Dr. McLoughlin shall obtain the approval of the Board for any medical practice or employment related to the

health care fields. The Board shall consider, among other factors, the adequacy and continuity of supervision and whether the tasks and responsibilities of the proposed practice or employment are consistent with the terms, limitations, and conditions of the aforementioned permanent licensure restrictions, which will ensure the protection of the public, prior to approval or disapproval of the proposed employment.

Additionally, prior to approval of any proposed employment, the Board may exercise its discretion to require additional evidence of Dr. McLoughlin's fitness to resume practice by requiring him to pass an evaluation and/or examination (whether physical, cognitive and/or written), which the Board may deem appropriate to assess Dr. McLoughlin's competency for such employment.

COMPLIANCE & MONITORING:

2. Dr. McLoughlin shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
3. Dr. McLoughlin 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, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
4. Dr. McLoughlin 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, and/or as otherwise requested by the Board, except that subsequent personal appearances which would routinely occur every three months throughout the duration of this Consent Agreement shall be waived by the Board provided that Dr. McLoughlin is otherwise in full compliance with this Consent Agreement. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
5. Dr. McLoughlin 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. McLoughlin's post-stroke status, cognitive status, or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and

records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. McLoughlin further agrees to provide the Board written consent permitting any provider from whom he obtains evaluation or treatment to notify the Board in the event he fails to agree to or comply with the recommendations or restrictions of any evaluation, assessment, and/or treatment. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.

6. Within thirty days of the effective date of this Consent Agreement, Dr. McLoughlin shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services (including but not limited to third party payors) or is receiving training, and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. McLoughlin shall promptly provide a copy of this Consent Agreement to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments. In the event that Dr. McLoughlin provides any health care services or health care direction or medical oversight to any emergency medical services organization or emergency medical services provider, within thirty days of the effective date of this Consent Agreement Dr. McLoughlin shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, Dr. McLoughlin shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
7. Within thirty days of the effective date of this Consent Agreement, Dr. McLoughlin shall provide a copy of this Consent Agreement to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Dr. McLoughlin further agrees to provide a copy of this Consent Agreement at time of application to the proper licensing authority of any state in which he applies for any professional license or for reinstatement of any professional license. Further, Dr. McLoughlin shall provide the Board with one of the following documents as proof of each

required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

8. Dr. McLoughlin shall promptly provide a copy of this Consent Agreement to all persons and entities that provide Dr. McLoughlin evaluation, treatment, or monitoring. Further, Dr. McLoughlin shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
9. Dr. McLoughlin shall notify the Board in writing of any change of principal practice address or residence address within thirty days of such change.
10. In the event that Dr. McLoughlin becomes aware that he is the subject of a complaint and/or investigation in any state or jurisdiction concerning conduct or events generally related to his practice of medicine, his professional licensure, and/or his employment in the health care field, Dr. McLoughlin shall notify the Board in writing within ten days, specifying the investigating or charging entity and the conduct or events for which he is being investigated or charged.

FAILURE TO COMPLY

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

This Consent Agreement shall not terminate, and the Permanent Licensure Restrictions set forth herein shall not be modified or terminated. In addition, Dr. McLoughlin shall not request modification to the remaining terms, limitations, and conditions contained herein for at least one year, except that Dr. McLoughlin may make such request with the mutual approval and joint recommendation of the Secretary and Supervising Member. Excluding the aforementioned specific exceptions, otherwise the above-described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

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

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

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. McLoughlin 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. McLoughlin 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. McLoughlin 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

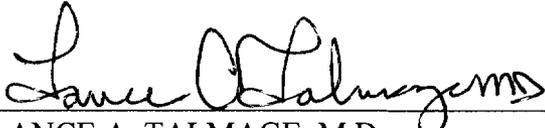
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.



DAVID E. MCLOUGHLIN, III, M.D.

4/29/10

DATE



LANCE A. TALMAGE, M.D.
Secretary

5-12-10

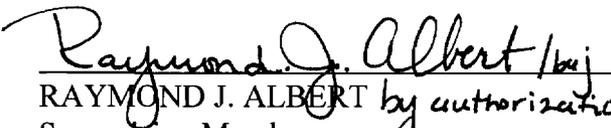
DATE



WILLIAM S. FEIN
Attorney for Dr. McLoughlin

4/30/10

DATE



RAYMOND J. ALBERT by authorization
Supervising Member

May 12, 2010

DATE



SHELDON R. SAFKO,
Enforcement Attorney

May 7, 2010

DATE