

**CONSENT AGREEMENT  
BETWEEN  
ROGER J. MASSER, D.P.M.  
AND  
THE STATE MEDICAL BOARD OF OHIO**

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

ROGER J. MASSER, D.P.M., voluntarily enters into this 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.

This CONSENT AGREEMENT contains 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.

**BASIS FOR ACTION**

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

- A. THE STATE MEDICAL BOARD OF OHIO is empowered by R.C. 4731.22 to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for any of the enumerated violations.
- B. THE STATE MEDICAL BOARD OF OHIO enters into this CONSENT AGREEMENT in lieu of further formal proceedings based upon the violations of R.C. 4731.22 set forth in the Notice of Opportunity for Hearing issued by the BOARD on April 8, 1998, attached hereto as Exhibit A and incorporated herein by this reference. The BOARD expressly reserves the right to institute additional formal proceedings based upon any other violations of R.C. Chapter 4731 whether occurring before or after the effective date of this AGREEMENT.
- C. ROGER J. MASSER, D.P.M., is licensed to practice podiatry in the State of Ohio. ROGER J. MASSER, D.P.M., ADMITS that his certificate to practice podiatry was immediately suspended

on November 11, 1992 pursuant to the provisions of R.C. 3719.121(C) due to his having pled guilty to felony drug abuse offenses of illegal processing of drug documents and drug abuse, for which he was found eligible for treatment in lieu of conviction by the Franklin County Common Pleas Court. Thereafter, on April 14, 1993, the BOARD issued an Order which provided for a stayed revocation of his license to practice podiatry and suspended that license for an indefinite period of time, but not less than one year (to be calculated from November 11, 1992). A copy of the April 14, 1993 Entry of Order is attached hereto as Exhibit B and incorporated herein by this reference. ROGER J. MASSER, D.P.M., further ADMITS that his license to practice podiatry was reinstated on or about November 11, 1993 pursuant to the terms of the April 14, 1993 Order and subject to the probationary terms of that Order for a probationary term of at least five (5) years.

- D. ROGER J. MASSER, D.P.M., ADMITS the allegations set forth in the Notice of Opportunity for Hearing issued by the BOARD on April 8, 1998, attached hereto as Exhibit A and incorporated herein by this reference.

#### AGREED CONDITIONS

WHEREFORE, in consideration of the foregoing and the mutual promises hereinafter set forth, and in lieu of any further formal proceedings at this time, and in substitution for the terms of the April 14, 1993 Entry of Order, ROGER J. MASSER, D.P.M., knowingly and voluntarily agrees with THE STATE MEDICAL BOARD OF OHIO, (hereinafter BOARD), to the following terms, conditions and limitations:

- I. DOCTOR MASSER's certificate to practice podiatry shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least THREE (3) years:
- A. DOCTOR MASSER shall obey all federal, state and local laws, and all rules governing the practice podiatry in Ohio.
  - B. DOCTOR MASSER 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, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the BOARD'S offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the BOARD'S offices on or before the first day of every third month.

- C. DOCTOR MASSER shall appear in person for semi-annual interviews before the BOARD or its designated representative, or as otherwise directed by the BOARD.

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

- D. In the event that DOCTOR MASSER should leave Ohio for three (3) continuous months, or reside or practice outside the State, DOCTOR MASSER 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 the 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.

- E. In the event DOCTOR MASSER is found by the Secretary of the BOARD to have failed to comply with any provision of this agreement, and is so notified of that deficiency in writing, such periods of noncompliance will not apply to the reduction of the probationary period under this CONSENT AGREEMENT.

### **Monitoring of Rehabilitation and Treatment**

#### **Drug Associated Restrictions**

- F. DOCTOR MASSER shall keep a log of all controlled substances prescribed, dispensed or administered. Such log shall be submitted in the format approved by the BOARD thirty (30) days prior to DOCTOR MASSER's personal appearance before the BOARD or its designated representative, or as otherwise directed by the BOARD.

#### **Sobriety**

- G. DOCTOR MASSER shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of DOCTOR MASSER's history of chemical dependency.
- H. DOCTOR MASSER shall abstain completely from the use of alcohol.

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

- I. DOCTOR MASSER shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the BOARD. DOCTOR MASSER shall ensure that all screening reports are forwarded directly to the BOARD on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board, and must specifically include testing for the presence of Ambien and other sedatives.

Within thirty (30) days of the effective date of this Agreement, DOCTOR MASSER shall submit to the BOARD for its prior approval the name of a supervising physician to whom DOCTOR MASSER shall submit the required urine specimens. The supervising physician shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the BOARD of any positive screening results.

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

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

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

- J. The BOARD retains the right to require, and DOCTOR MASSER agrees to submit, blood or urine specimens for analysis upon request and without prior notice. DOCTOR MASSER'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.

- K. DOCTOR MASSER agrees that if any declaration or report required by this AGREEMENT is not received in the BOARD's offices on or before its due date, DOCTOR MASSER shall cease practicing beginning the day next following receipt from the BOARD of notice of non-receipt, either by writing, by telephone, or by personal contact until the declaration or report is received in the BOARD offices. Any practice during this time period shall be considered unlicensed practice in violation of Section 4731.41 of the Revised Code.

### **Rehabilitation Program**

- L. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR MASSER shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or Caduceus, or any other program approved in advance by the BOARD specifically for DOCTOR MASSER, no less than THREE (3) times per week. Substitution of any specific program must receive prior BOARD approval.

DOCTOR MASSER shall submit with each quarterly declaration required under Paragraph I.B. of this CONSENT AGREEMENT acceptable documentary evidence of continuing compliance with this program.

### **Notification Requirements**

- II. Within thirty (30) days of the effective date of this AGREEMENT, DOCTOR MASSER 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 a license to practice. DOCTOR MASSER 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 licensure or reinstatement of licensure. Further, DOCTOR MASSER shall provide this BOARD with a copy of the return receipt as proof of notification within thirty (30) days of receiving that return receipt.

III. Within thirty (30) days of the effective date of this AGREEMENT, DOCTOR MASSER shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he is under contract to provide podiatric services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, DOCTOR MASSER shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he contracts to provide podiatric services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

#### **Duration/Modification of Terms**

This AGREEMENT shall remain in force for a minimum of THREE (3) years prior to any request for termination of said AGREEMENT. Otherwise, the above described terms, limitations and conditions 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 STATE MEDICAL BOARD OF OHIO, DOCTOR MASSER appears to have violated or breached any term or condition of this Agreement, THE STATE MEDICAL BOARD OF OHIO 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 Agreement.

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

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

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

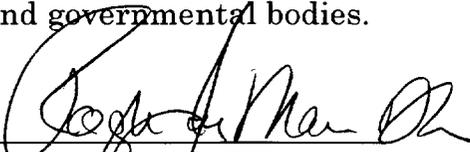
DOCTOR MASSER hereby releases the STATE MEDICAL BOARD OF OHIO, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

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

**EFFECTIVE DATE**

This CONSENT AGREEMENT, upon becoming effective, shall supersede and replace the April 14, 1993 Entry of Order, attached hereto as Exhibit B.

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

  
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ROGER J. MASSER, D.P.M.

6/17/98  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
DOUGLAS E. GRAFF  
Attorney for Dr. Masser

6/17/98  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
ANAND G. GARG, M.D.  
Secretary

8/1/98  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
RAYMOND J. ALBERT  
Supervising Member

7/8/98  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
ANNE BERRY STRAIT  
Assistant Attorney General

7/8/98  
\_\_\_\_\_  
DATE



# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614)466-3034

April 8, 1998



Roger J. Masser, D.P.M.  
Eastglen Professional Center  
6495 East Broad Street, Suite F  
Columbus, OH 43213

Dear Doctor Masser:

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, suspend, refuse to register or reinstate your certificate to practice podiatry, or to reprimand or place you on probation for one or more of the following reasons:

- (1)(a) On or about November 11, 1992, the State Medical Board of Ohio immediately suspended your license to practice podiatric medicine and surgery due to your having pled guilty to felony drug abuse offenses of illegal processing of drug documents and drug abuse, for which you were found eligible for treatment in lieu of conviction. The November 11, 1992 immediate suspension notice is attached hereto and incorporated herein.
- (b) On or about April 14, 1993, the State Medical Board of Ohio issued an Order which provided for a stayed revocation of your license to practice podiatric medicine and surgery and indefinitely suspended your license for a minimum of one year based on your guilty pleas above. The April 14, 1993 Board Order is attached hereto and incorporated herein. Your license was reinstated on or about November 11, 1993 pursuant to the terms of the April 14, 1993 Order and subject to the probationary terms of that Order for a probationary term of at least five (5) years. Paragraph 3.g. of the April 14, 1993 Order requires the following:

Dr. Masser shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him [by] another so authorized by law who has full knowledge of Dr. Masser's history of chemical dependency.

- (c) On or about August 3, 1995, during an interview with an Investigator of the State Medical Board of Ohio, you admitted that you ordered Ambien samples, a Schedule IV controlled substance, from Searle Pharmaceuticals to your office and that you ingested those samples in addition to Ambien that was prescribed to you by your treating physician, Dr. James Soldano. You also admitted that you kept no records of any kind regarding those Ambien samples.

*Mailed 4/9/98*

Your acts, conduct, and/or omissions as alleged in paragraph (1)(c) above, individually and/or collectively, constitute a "[v]iolation of the conditions of limitation placed by the board upon a certificate to practice or violation of the conditions of limitation upon which a limited or temporary registration or certificate to practice is issued," as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1)(c) above, individually and/or collectively, constitute "[c]ommission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice," as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 3719.07, Ohio Revised Code, Records of controlled substances.

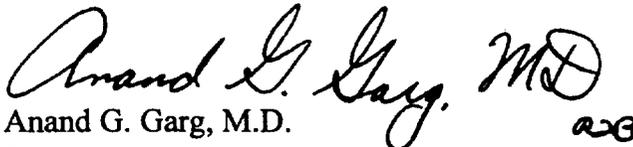
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing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

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,

  
Anand G. Garg, M.D.  
Secretary

AGG/bjs  
Enclosures

CERTIFIED MAIL #P 152 984 755  
RETURN RECEIPT REQUESTED

cc: Douglas E. Graff, Esq.  
CERTIFIED MAIL #P 152 984 756  
RETURN RECEIPT REQUESTED



# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

April 16, 1993



Roger J. Masser, D.P.M.  
5969 E. Broad Steet, Suite 302  
Columbus, Ohio 43213

Dear Doctor Masser:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on April 14, 1993, including a Motion 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 may be taken to the Franklin County Court of Common Pleas only.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Carla S. O'Day, M.D.  
Secretary

CS0:em

Enclosures

CERTIFIED MAIL RECEIPT NO. P 055-326-122  
RETURN RECEIPT REQUESTED

cc: Roger J. Masser, D.P.M.  
2572 Bryden Road  
Columbus, Ohio 43209

cc: Douglas E. Graff, Esq.

CERTIFIED MAIL P 055 326 124  
RETURN RECEIPT REQUESTED

CERTIFIED MAIL NO. P 055 326 123  
RETURN RECEIPT REQUESTED

Mailed 4/16/93



# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

## CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, State Medical Board; and an excerpt of Minutes of the State Medical Board, meeting in regular session on April 14, 1993, including a Motion approving and confirming the Report and Recommendation 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 Roger J. Masser, D.P.M., as it appears in the Journal of the State Medical Board of Ohio.

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

(SEAL)

Carla S. O'Day (M.D.)  
Carla S. O'Day, M.D.  
Secretary

4/15/93  
Date



# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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ROGER J. MASSER, D.P.M.

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## ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on the 14th day of April, 1993.

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

It is hereby ORDERED that:

1. The certificate of Roger J. Masser, D.P.M., to practice podiatric medicine and surgery in the State of Ohio shall be permanently REVOKED. Such revocation is STAYED, and Dr. Masser's certificate shall remain SUSPENDED for an indefinite period of time, but not less than one (1) year, such time to be calculated from November 11, 1992, when the immediate suspension of Dr. Masser's certificate was imposed.
2. The State Medical Board shall not consider REINSTATEMENT of Dr. Masser's certificate to practice unless and until all of the following minimum REQUIREMENTS are met:
  - a. Dr. Masser shall submit an application for reinstatement accompanied by appropriate fees. Dr. Masser shall not make such application for at least one (1) year from November 11, 1992.



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## STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

Roger J. Masser, D.P.M.

- b. Dr. Masser shall provide acceptable documentation of successful completion of programs of approved Category I Continuing Medical Education dealing with the prescribing of controlled substances and/or issues of codependency. The exact number of hours and the specific content of the programs shall be subject to the prior approval of the Board or its designee, but shall not be less than twenty (20) hours. These programs shall be in addition to the Continuing Medical Education requirements for relicensure.
  - c. Dr. Masser shall provide satisfactory documentation of continuous participation during the period of suspension in a drug and alcohol rehabilitation program, such as AA, NA, or Caduceus, approved in advance by the Board specifically for Dr. Masser, no less than three (3) times per week, or as otherwise directed by the Board.
  - d. Dr. Masser shall provide satisfactory documentation of continuous compliance during the period of suspension with his advocacy contract with the Ohio Physicians Effectiveness Program.
  - e. In the event that Dr. Masser has not been engaged in the active practice of podiatric medicine and surgery for a period in excess of two (2) 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. Masser's fitness to resume practice.
3. Upon reinstatement, Dr. Masser's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five (5) years:
- a. Dr. Masser shall obey all federal, state, and local laws, and all rules governing the practice of podiatric medicine and surgery in Ohio.
  - b. Dr. Masser shall submit quarterly declarations under penalty of perjury stating whether or not there has been compliance with all the provisions of probation.



# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

Roger J. Masser, D.P.M.

- c. Dr. Masser shall appear in person for interviews before the full Board or its designated representative at three (3) month intervals, or as otherwise requested by the Board.
- d. In the event that Dr. Masser should leave Ohio for three (3) consecutive months, or reside or practice outside the State, Dr. Masser must notify the State Medical Board in writing of the dates of departure and return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.
- e. Dr. Masser shall not purchase, prescribe, order, dispense, administer, or possess (except as prescribed for his use by another so authorized by law with full knowledge of Dr. Masser's chemical dependency) any controlled substances, and shall be ineligible to reapply for or to hold registration with the United States Drug Enforcement Administration, without prior Board approval.
- f. Upon reinstatement of Dr. Masser's controlled substance privileges pursuant to Board approval, Dr. Masser shall keep a log of all controlled substances purchased, prescribed, dispensed, or administered. Such log shall be submitted in the format approved by the Board thirty (30) days prior to Dr. Masser's personal appearances before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Masser shall make his patient records with regard to such prescribing available for review by an agent of the State Medical Board upon request.
- g. Dr. Masser shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him another so authorized by law who has full knowledge of Dr. Masser's history of chemical dependency.
- h. Dr. Masser shall abstain completely from the use of alcohol.



## STATE MEDICAL BOARD OF OHIO

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Roger J. Masser, D.P.M.

- i. Dr. Masser shall submit to random urine screenings for drugs on a monthly basis, or as otherwise directed by the Board. Dr. Masser shall ensure that all screening reports are forwarded directly to the Board on a monthly basis. Within thirty (30) days of the effective date of the reinstatement of his certificate, Dr. Masser shall submit to the Board for its prior approval the name of a supervising physician to whom he shall submit the required urine specimens. The supervising physician shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the Board of any positive screening results. In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Masser must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable.
  - j. Dr. Masser shall submit blood or urine specimens for analysis without prior notice at such times as the Board may request.
  - k. Dr. Masser shall maintain participation in an alcohol and drug rehabilitation program, such as AA, NA, or Caduceus, approved in advance by the Board specifically for Dr. Masser, no less than three (3) times per week, or as otherwise directed by the Board. At Dr. Masser's appearances before the Board or its designated representative, Dr. Masser shall submit acceptable documentary evidence of continuing compliance with this program.
  - l. Dr. Masser shall provide a copy of this Order to all employers and the Chief of Staff at each hospital where he has, applies for, or obtains privileges.
4. If Dr. Masser violates probation in any respect, the Board, after giving Dr. Masser notice and the opportunity to be heard, may set aside the stay order and impose the permanent revocation of Dr. Masser's certificate.



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Roger J. Masser, D.P.M.

5. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Masser's certificate will be fully restored.

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

*Carla S. O'Day M.D.*  
\_\_\_\_\_  
Carla S. O'Day, M.D.  
Secretary

*4/15/93*

\_\_\_\_\_  
Date

(SEAL)

REPORT AND RECOMMENDATION  
IN THE MATTER OF ROGER J. MASSER, D.P.M. MAR 15 PM 12:00

The Matter of Roger J. Masser, D.P.M., came on for hearing before me, Wanita J. Sage, Esq., Hearing Examiner for the State Medical Board of Ohio, on February 12, 1993.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Basis for Hearing

- A. By letter of November 11, 1992 (State's Exhibit #1), the State Medical Board notified Roger J. Masser, D.P.M., that his certificate to practice podiatric medicine and surgery in Ohio was immediately suspended pursuant to Section 3719.121(C), Ohio Revised Code. The State Medical Board further notified Dr. Masser that it proposed to take disciplinary action against his certificate for one or more of the following reasons:
1. On or about July 27, 1992, in the Franklin County Common Pleas Court, Dr. Masser pled guilty to three felony counts of Illegal Processing of Drug Documents, violations of Section 2925.23, Ohio Revised Code, and to three felony counts of Drug Abuse, violations of Section 2925.11, Ohio Revised Code. That court subsequently found that Dr. Masser was eligible for treatment in lieu of conviction pursuant to Section 2951.041, Ohio Revised Code. The Board alleged that the acts, conduct, and/or omissions underlying the judicial finding of eligibility for treatment in lieu of conviction included Dr. Masser's writing prescriptions for narcotic medications in the names of patients for his own personal use. The judicial finding and the acts, conduct, and/or omissions underlying this finding were alleged to constitute: "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes", as that clause is used in Section 4731.22(B)(3), Ohio Revised Code; "soliciting patients or publishing a false, fraudulent, deceptive, or misleading statement", as those clauses are used in Section 4731.22(B)(5), Ohio Revised Code; "the obtaining of or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice", as that clause is used in Section 4731.22(B)(8), Ohio Revised Code; and/or "commission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed", as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Sections 2925.23 and 2925.11, Ohio Revised Code.

93 MAR 15 PM 12:00

2. The Board further alleged that, on 71 occasions from January 4 through September 25, 1991, Dr. Masser issued prescriptions for 20 cc. amounts of injectable Demerol 100 mg., Dilaudid 2 mg., and/or injectable Meperidine 100 mg. in the names of various patients when, in fact, he obtained the drug for his own personal use. Such acts, conduct, and/or omissions were also alleged to constitute violations of Sections 4731.22(B)(3), (B)(5), and (B)(8), Ohio Revised Code, and Section 4731.22(B)(10), Ohio Revised Code, to wit: Sections 2925.11, Drug Abuse, and 2925.23, Illegal Processing of Drug Documents.
3. Further, the Board alleged that, on nine occasions between March 1 and September 26, 1991, Dr. Masser issued prescriptions for various amounts of injectable Demerol 100 mg., injectable Demerol 50 mg., injectable Meperidine 100 mg., and/or Methadone 10 mg. in various names when he intended these drugs to be used by G. Ford, whom Dr. Masser believed to be addicted to drugs and alcohol. Such acts, conduct, and/or omissions were alleged to constitute violations of Sections 4731.22(B)(3) and (B)(5), Ohio Revised Code, and Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.03(C)(1), Aggravated Trafficking in Drugs.

Dr. Masser was advised of his right to request a hearing in this Matter.

- B. By document filed with the State Medical Board on November 22, 1992 (State's Exhibit #2), Douglas E. Graff, Esq., requested a hearing on behalf of Dr. Masser.

## II. Appearances

- A. On behalf of the State of Ohio: Lee I. Fisher, Attorney General, by Susan C. Walker, Assistant Attorney General
- B. On behalf of the Respondent: Douglas E. Graff, Esq.

## III. Testimony Heard

- A. Presented by the State

Frederick C. Williams, Investigator, State Board of Pharmacy

Tape recording of interview between Mr. Williams and Dr. Masser

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B. Presented by the Respondent

1. James B. Soldano, M.D.
2. Richard O. Pelham, M.D.
3. Roger J. Masser, D.P.M.

IV. Exhibits Examined

In addition to State's Exhibits #1 and #2, noted above, the following exhibits were identified and admitted into evidence in this matter:

A. Presented by the State

1. State's Exhibit #3: November 23, 1992, letter to Douglas E. Graff, Esq., from the State Medical Board, advising that a hearing initially set for December 7, 1992, was postponed pursuant to Section 119.09, Ohio Revised Code.
2. State's Exhibit #4: November 27, 1992, letter to Attorney Graff from the State Medical Board, scheduling the hearing for February 11, 1993.
3. State's Exhibit #5: Motion filed by the Respondent on January 25, 1993, requesting a one-day continuance.
4. State's Exhibit #6: January 26, 1993, Entry granting the Respondent's motion for continuance and rescheduling the hearing for February 12, 1993.
5. State's Exhibit #7: Various certified documents from the Franklin County Court of Common Pleas regarding Case No. 92CR-05-2612, State v. Masser, including: August 27, 1992, Agreed Entry of Forfeiture and remittance form; bill of cost; execution for costs; July 27, 1992, Waiver of Indictment; Criminal Disposition Sheet; July 27, 1992, Entry for Treatment in Lieu of Conviction; July 27, 1992, Entry of Guilty Plea to Bill of Information; July 10, 1992, Motion of Defendant for Consideration of Treatment in Lieu of Conviction; and May 18, 1992, Bill of Information.
6. State's Exhibit #8: November 6, 1992, Amended Entry for Treatment in Lieu of Conviction in Case No. 92CR-05-2612, State v. Masser.

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7. State's Exhibit #9: November 10, 1992, mandatory report from the Franklin County Prosecuting Attorney regarding Dr. Masser's plea of guilty to criminal charges.
8. State's Exhibit #10: Tape recording of an October 1, 1991, interview between Frederick C. Williams, Investigator, State Board of Pharmacy, and Dr. Masser.
9. State's Exhibit #11: Copies of fronts and backs of 67 prescriptions written by Dr. Masser in the names of various patients.
10. State's Exhibit #12: Copies of fronts and backs of 10 prescriptions written by Dr. Masser in the names of various patients.

B. Presented by the Respondent

1. Respondent's Exhibit A: Curriculum vitae of Roger J. Masser, D.P.M.
2. Respondent's Exhibit B: Letters dated February 8, 1993, January 24, 1992, and October 25, 1991, from Tom H. Pepper, M.D., Riverside Methodist Hospitals, regarding Dr. Masser's compliance with treatment and aftercare programs.
3. Respondent's Exhibit C: Curriculum vitae of Richard O. Pelham, M.D.
4. Respondent's Exhibit D: Dr. Masser's October 22, 1991, Advocacy Contract with the Ohio Physicians Effectiveness Program.
5. Respondent's Exhibit E: Multi-page document, including a 10-page log of Dr. Masser's attendance at AA meetings and 21 drug screen reports.
6. Respondent's Exhibit F: Curriculum vitae of James B. Soldano, M.D.

V. Post-Hearing Admissions to the Record

The following additional exhibits are hereby admitted upon the Hearing Examiner's own motion:

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1. Board Exhibit A: Copies of Sections 2925.03, 2925.11, 2925.23, 2929.17, and 2951.041, Ohio Revised Code.
2. Board Exhibit B: Copies of Sections 3719.01, and 3719.121, Ohio Revised Code.

#### FINDINGS OF FACT

1. By Bill of Information filed in the Franklin County Court of Common Pleas on May 18, 1992, Roger J. Masser, D.P.M., was charged with three felony counts of knowingly obtaining, possessing, or using Meperidine Hydrochloride, a Schedule II controlled substance commonly known as Demerol, in violation of Section 2925.11, Ohio Revised Code, "Drug Abuse," and three felony counts of intentionally making, uttering, or selling a false or forged prescription for Meperidine Hydrochloride, a Schedule II controlled substance, in violation of Section 2925.23, Ohio Revised Code, "Illegal Processing of Drug Documents." On or about July 27, 1992, Dr. Masser pled guilty as charged to these six felony counts.

On or about July 27, 1992, the Franklin County Court of Common Pleas found that Dr. Masser was eligible for treatment in lieu of conviction, and ordered a stay of all criminal proceedings and an indefinite period of rehabilitation, not to exceed two years, under the control and supervision of the Franklin County Probation Department. Although the Court's July 27, 1992, Entry reflected that Dr. Masser had been charged with a first degree misdemeanor, an Amended Entry for Treatment in Lieu of Conviction, filed on November 6, 1992, correctly reflected that he had been charged with three felony counts of Drug Abuse and three felony counts of Illegal Processing of Drug Documents. The Court's grant of treatment in lieu of conviction was based partly upon its findings that Dr. Masser's drug dependence was a factor leading to his criminal activity, and that he had been accepted into an appropriate drug rehabilitation program.

These facts are established by State's Exhibits #7 and #8.

2. On at least 67 occasions during the 264-day period from January 4 through September 25, 1991, Dr. Masser issued prescriptions for 20 cc's of injectable Demerol 100 mg., injectable Meperidine 100 mg., and/or Dilaudid 2 mg., all Schedule II controlled substance narcotics, in the names of various patients when, in fact, he obtained these drugs for his own personal use. Dr. Masser issued these prescriptions on the dates and as otherwise indicated in numbered paragraph 2 of the Board's citation letter (State's Exhibit #1), except that no evidence was submitted with regard to

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the prescriptions listed as being issued on May 8, May 28, June 17, and August 7, 1991.

These facts are established by State's Exhibit #10 (Tr. at 33-35), State's Exhibit #11, and the testimony of Dr. Masser (Tr. at 103-106).

3. On at least nine occasions during the 209-day period from March 1 through September 26, 1991, on the dates and in the amounts listed in numbered paragraph 3 of the Board's citation letter (State's Exhibit #1), Dr. Masser issued prescriptions for injectable Demerol 100 mg., injectable Meperidine 100 mg., Methadone 10 mg., and/or injectable Demerol 50 mg. In addition, on September 27, 1991, Dr. Masser issued a prescription for another 20 cc's of Demerol 100 mg. Although Dr. Masser issued these prescriptions in various names, he intended the drugs to be used by Greg Ford, whom he knew to have a long-standing drug abuse problem, and by himself.

These facts are established by State's Exhibit #10 (Tr. at 33-36), State's Exhibit #12, and the testimony of Dr. Masser (Tr. at 108-110, 119-120).

4. Although the dates of the prescriptions submitted as evidence in this Matter do not correspond specifically with the dates of the criminal offenses to which Dr. Masser pled guilty, they fall within the same time period, January through September, 1991.

This fact is established by State's Exhibits #7, #11, and #12.

5. Dr. Masser was admittedly drug dependent at the time he issued the prescriptions included in State's Exhibit #11. During an October 1, 1991, interview with a State Pharmacy Board Investigator, Dr. Masser identified these prescriptions as ones he had written in the names of various patients who did not get the drugs because Dr. Masser himself took the drugs.

Dr. Masser testified that he had sustained a severe knee injury in late 1990. He had self-treated for pain from that injury by using a bottle of Demerol he kept in his office for use in treating patients with extreme pain following podiatric surgery. Dr. Masser self-injected Demerol on a couple of occasions for his knee pain. A week or two later, when he came home with a tension headache, he remembered the good feeling Demerol had given him, and self-injected it again. Thereafter, he quickly became "hooked" on Demerol. He also very quickly developed tolerance to it. After a few months, he was no longer using it for pleasure, but to keep from going into withdrawal. To obtain Demerol, he would write a prescription, usually in the name of a patient he had operated on

that day, and fill it himself at the pharmacy. At first, Dr. Masser would actually go to the patient's house, give the patient an injection of Demerol, then take the rest of the vial home to use for himself.

These facts are established by State's Exhibit #10 (Tr. at 33-35), State's Exhibit #11, and the testimony of Dr. Masser (Tr. at 103-106).

6. Dr. Masser also admitted that he had written the prescriptions included in State's Exhibit #12 in various names for the use of Greg Ford and himself. Dr. Masser's statements during his October 1, 1991, interview with Mr. Williams, the Pharmacy Board Investigator, vary somewhat from his statements at hearing regarding these prescriptions.

Dr. Masser told Mr. Williams that Greg Ford, then a 26-year-old college student, had had an alcohol abuse problem since high school and had continued with drug abuse. Greg had begged Dr. Masser to prescribe narcotics for him, and Dr. Masser had done so. Dr. Masser stated that he had given Greg either prescriptions or drugs at Greg's request. He had given Greg prescriptions for Vicodin, a Schedule III narcotic, more often than for Demerol, a Schedule II narcotic. Dr. Masser further stated that, if Greg had a prescription, he would generally come over to Dr. Masser's house and split the vial, and they would "do drugs" together.

At hearing, Dr. Masser denied that he had ever self-injected Demerol in Greg's presence. He stated that he would write a prescription for Greg, who would fill it at the pharmacy and bring the drugs back to Dr. Masser's house. Dr. Masser would give Greg an injection, then wait for him to sleep it off and go home before Dr. Masser used the rest of the bottle for himself. Dr. Masser stated that he had never let Greg take drugs home with him because Dr. Masser had needed them too badly himself.

These facts are established by State's Exhibit #10 (Tr. at 35-42), State's Exhibit #12, and the testimony of Dr. Masser (Tr. at 102-103, 108-110, 119-120, 125-126, 134-135).

7. Dr. Masser testified that, at the height of his addiction, he used as much as a vial of injectable Demerol 100 mg. per day. Each 20 cc vial would provide 20 injections of 1 cc each. Dr. Masser stated that he had been careful not to be "real sedated" while seeing patients. Although he claimed to have confined his drug use to weekends or times when he knew he was going to be off work, he admitted that he had done a lot of patient counseling, rescheduling of surgeries, and asking other physicians to cover for him during the time period in question. Dr. Masser denied that he had ever

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self-injected Demerol while he was actively practicing. He stated that he had sometimes worked four hours in his office in the mornings, then worked in the operating room in the afternoons. Although he testified that he would start to go into withdrawal after a four-hour period, he recalled only one occasion where he had been in the operating room and had had to go sit down because he felt ill.

These facts are established by the testimony of Dr. Masser (Tr. at 106-108, 119-120, 123-125, 130-132).

8. Dr. Masser underwent inpatient treatment at the Alcohol and Drug Dependency Treatment Unit, Riverside Methodist Hospitals, from October 7 to October 26, 1991. Since then, Dr. Masser has fully complied with Riverside's aftercare program, as well as the terms of his advocacy contract with the Ohio Physicians Effectiveness Program, and has maintained his abstinence from drugs and alcohol.

These facts are established by Respondent's Exhibits B through E, the testimony of Richard Pelham, M.D. (Tr. at 79-96), and the testimony of Dr. Masser (Tr. at 113-116).

9. Dr. Masser, who is Board certified in podiatric surgery, returned to practice after his inpatient treatment, until the immediate suspension of his podiatric license in November, 1992. The testimony of Dr. James Soldano indicated that Dr. Masser provided excellent patient care during this period, and is well thought of by his patients. Dr. Masser's colleagues at Mt. Carmel East Hospital are aware of his chemical dependency and support his recovery. Dr. Masser also has the support of family and friends.

Dr. Masser testified that he prescribed Schedule II narcotics for patients, utilizing stringent recordkeeping methods, during the year he practiced after his treatment. He felt that he could prescribe such drugs without risk of relapse, but would not feel comfortable administering or dispensing controlled substances to patients. He no longer kept such drugs in his office.

These facts are established by Respondent's Exhibits A and F, the testimony of James Soldano, M.D. (Tr. at 72-78), and the testimony of Dr. Masser (Tr. at 116-123, 128-130, 132-133).

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### CONCLUSIONS

1. As set forth in Findings of Fact #1 through #6, above, Roger J. Masser, D.P.M., admittedly issued false prescriptions for Schedule II narcotics, writing them in the names of various individuals who did not receive the drugs. By this means, Dr. Masser obtained drugs for his own nontherapeutic use, as well as the nontherapeutic use of Greg Ford, whom he knew to have a long-standing drug abuse problem. Such acts led to criminal charges against Dr. Masser. He pled guilty to three felony counts of Drug Abuse and three felony counts of Illegal Processing of Drug Documents. Dr. Masser was found eligible for treatment in lieu of conviction. The judicial finding of eligibility for treatment in lieu of conviction and the acts, conduct, and/or omissions of Dr. Masser underlying this judicial finding constitute:
  - a. "Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes", as that clause is used in Section 4731.22(B)(3), Ohio Revised Code;
  - b. "Publishing a false, fraudulent, deceptive, or misleading statement", as that clause is used in Section 4731.22(B)(5), Ohio Revised Code;
  - c. "The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice", as that clause is used in Section 4731.22(B)(8), Ohio Revised Code; and/or
  - d. "Commission of an act that constitutes a felony in this State regardless of the jurisdiction in which the act was committed", as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.23, Ohio Revised Code, "Illegal Processing of Drug Documents," and Section 2925.11, Ohio Revised Code, "Drug Abuse."
2. As set forth in Findings of Fact #2 and #5, above, on at least 67 occasions during 1991, Dr. Masser issued prescriptions for Schedule II controlled substance narcotics, mainly injectable Demerol 100 mg., in the names of various patients when, in fact, he obtained the drug for his own personal, nontherapeutic use. He admittedly self-injected these drugs, to which he was addicted. Such acts, conduct, and/or omissions constitute:
  - a. "Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes", as that clause is used in Section 4731.22(B)(3), Ohio Revised Code;

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- b. "Publishing a false, fraudulent, deceptive, or misleading statement", as that clause is used in Section 4731.22(B)(5), Ohio Revised Code;
  - c. "The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice", as that clause is used in Section 4731.22(B)(8), Ohio Revised Code; and/or
  - d. "Commission of an act that constitutes a felony in this State regardless of the jurisdiction in which the act was committed", as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Sections 2925.11 and 2925.23, Ohio Revised Code.
3. As set forth in Findings of Fact #3 and #6, above, on at least 10 occasions during 1991, Dr. Masser knowingly issued false prescriptions for Schedule II narcotics in various names, when he intended those drugs to be used by Greg Ford, whom he knew to have a long-standing drug abuse problem, and by himself. He admittedly issued these prescriptions upon Mr. Ford's requests for narcotics, without establishing medical indication or keeping patient records. The other individuals in whose names Dr. Masser wrote these prescriptions did not receive the drugs. Such acts, conduct, and/or omissions are not in accordance with Chapters 3719. and 4731., Ohio Revised Code, and constitute:
- a. "Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes", as that clause is used in Section 4731.22(B)(3), Ohio Revised Code;
  - b. "Publishing a false, fraudulent, deceptive, or misleading statement", as that clause is used in Section 4731.22(B)(5), Ohio Revised Code, and/or
  - c. "Commission of an act that constitutes a felony in this State regardless of the jurisdiction in which the act was committed", as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: "Aggravated Trafficking in Drugs," pursuant to Sections 2925.03(A)(1), (B)(1), and (C)(1), Ohio Revised Code.

\* \* \* \* \*

Dr. Masser illegally issued prescriptions in the names of other individuals, not only to feed his own addiction, but also to provide Schedule II narcotics for a drug-abusing friend. Such acts cannot be viewed lightly. It is this Board's stated policy that impairment shall

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not excuse acts which result in conviction or which have a potentially adverse impact on other individuals. Although Dr. Masser was not convicted of the felony drug offenses to which he pled guilty, due to the court's grant of treatment in lieu of conviction, his knowingly providing narcotics for the nontherapeutic use of Mr. Ford obviously posed the potential for adverse impact on Mr. Ford. Nevertheless, this Board may consider in mitigation the facts that Dr. Masser ceased prescribing for Mr. Ford, voluntarily sought treatment for his chemical dependency, and has zealously pursued and maintained recovery since October, 1991. Moreover, he appears to have a strong support system in place, and practiced without mishap from the time of his treatment until the immediate suspension of his podiatric license in November, 1992. Although his testimony at hearing appeared to contradict or minimize his earlier statements to a Pharmacy Board Investigator with regard to his improper conduct involving Mr. Ford (see Finding of Fact #6, above), Dr. Masser did express remorse for his past misconduct and appeared willing to accept responsibility by maintaining his recovery.

PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of Roger J. Masser, D.P.M., to practice podiatric medicine and surgery in the State of Ohio shall be permanently REVOKED. Such revocation is STAYED, and Dr. Masser's certificate shall remain SUSPENDED for an indefinite period of time, but not less than one (1) year, such time to be calculated from November 11, 1992, when the immediate suspension of Dr. Masser's certificate was imposed.
2. The State Medical Board shall not consider REINSTATEMENT of Dr. Masser's certificate to practice unless and until all of the following minimum REQUIREMENTS are met:
  - a. Dr. Masser shall submit an application for reinstatement accompanied by appropriate fees. Dr. Masser shall not make such application for at least one (1) year from November 11, 1992.
  - b. Dr. Masser shall provide acceptable documentation of successful completion of programs of approved Category I Continuing Medical Education dealing with the prescribing of controlled substances and/or issues of codependency. The exact number of hours and the specific content of the programs shall be subject to the prior approval of the Board or its designee, but shall not be less than twenty (20) hours. These programs shall be in addition to the Continuing Medical Education requirements for relicensure.

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- c. Dr. Masser shall provide satisfactory documentation of continuous participation during the period of suspension in a drug and alcohol rehabilitation program, such as AA, NA, or Caduceus, approved in advance by the Board specifically for Dr. Masser, no less than three (3) times per week, or as otherwise directed by the Board.
  - d. Dr. Masser shall provide satisfactory documentation of continuous compliance during the period of suspension with his advocacy contract with the Ohio Physicians Effectiveness Program.
  - e. In the event that Dr. Masser has not been engaged in the active practice of podiatric medicine and surgery for a period in excess of two (2) 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. Masser's fitness to resume practice.
3. Upon reinstatement, Dr. Masser's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five (5) years:
- a. Dr. Masser shall obey all federal, state, and local laws, and all rules governing the practice of podiatric medicine and surgery in Ohio.
  - b. Dr. Masser shall submit quarterly declarations under penalty of perjury stating whether or not there has been compliance with all the provisions of probation.
  - c. Dr. Masser shall appear in person for interviews before the full Board or its designated representative at three (3) month intervals, or as otherwise requested by the Board.
  - d. In the event that Dr. Masser should leave Ohio for three (3) consecutive months, or reside or practice outside the State, Dr. Masser must notify the State Medical Board in writing of the dates of departure and return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.
  - e. Dr. Masser shall not purchase, prescribe, order, dispense, administer, or possess (except as prescribed

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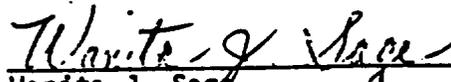
- for his use by another so authorized by law with full knowledge of Dr. Masser's chemical dependency) any controlled substances, and shall be ineligible to reapply for or to hold registration with the United States Drug Enforcement Administration, without prior Board approval.
- f. Upon reinstatement of Dr. Masser's controlled substance privileges pursuant to Board approval, Dr. Masser shall keep a log of all controlled substances purchased, prescribed, dispensed, or administered. Such log shall be submitted in the format approved by the Board thirty (30) days prior to Dr. Masser's personal appearances before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Masser shall make his patient records with regard to such prescribing available for review by an agent of the State Medical Board upon request.
  - g. Dr. Masser shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him another so authorized by law who has full knowledge of Dr. Masser's history of chemical dependency.
  - h. Dr. Masser shall abstain completely from the use of alcohol.
  - i. Dr. Masser shall submit to random urine screenings for drugs on a monthly basis, or as otherwise directed by the Board. Dr. Masser shall ensure that all screening reports are forwarded directly to the Board on a monthly basis. Within thirty (30) days of the effective date of the reinstatement of his certificate, Dr. Masser shall submit to the Board for its prior approval the name of a supervising physician to whom he shall submit the required urine specimens. The supervising physician shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the Board of any positive screening results. In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Masser must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable.

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- j. Dr. Masser shall submit blood or urine specimens for analysis without prior notice at such times as the Board may request.
- k. Dr. Masser shall maintain participation in an alcohol and drug rehabilitation program, such as AA, NA, or Caduceus, approved in advance by the Board specifically for Dr. Masser, no less than three (3) times per week, or as otherwise directed by the Board. At Dr. Masser's appearances before the Board or its designated representative, Dr. Masser shall submit acceptable documentary evidence of continuing compliance with this program.
- l. Dr. Masser shall provide a copy of this Order to all employers and the Chief of Staff at each hospital where he has, applies for, or obtains privileges.
4. If Dr. Masser violates probation in any respect, the Board, after giving Dr. Masser notice and the opportunity to be heard, may set aside the stay order and impose the permanent revocation of Dr. Masser's certificate.
5. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Masser's certificate will be fully restored.

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

  
\_\_\_\_\_  
Wanita J. Sage  
Attorney Hearing Examiner



# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

EXCERPT FROM THE MINUTES OF APRIL 14, 1993

## REPORTS AND RECOMMENDATIONS

Dr. Agresta announced that the Board would now consider the findings and orders appearing on the Board's agenda.

Dr. Agresta asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Basharat Ahmad, M.D., and Roger J. Masser, D.P.M. A roll call was taken:

ROLL CALL:	Dr. O'Day	- aye
	Mr. Albert	- aye
	Dr. Stienecker	- aye
	Dr. Hom	- aye
	Dr. Stephens	- aye
	Dr. Gretter	- aye
	Dr. Heidt	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Dr. Garg	- aye
	Dr. Agresta	- aye

Dr. Agresta asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Dr. O'Day	- aye
	Mr. Albert	- aye
	Dr. Stienecker	- aye
	Dr. Hom	- aye
	Dr. Stephens	- aye
	Dr. Gretter	- aye
	Dr. Heidt	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Dr. Garg	- aye
	Dr. Agresta	- aye

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



# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

EXCERPT FROM THE MINUTES OF APRIL 14, 1993  
IN THE MATTER OF ROGER J. MASSER, D.P.M.

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.....  
REPORT AND RECOMMENDATION IN THE MATTER OF ROGER J. MASSER, D.P.M.  
.....

MS. NOBLE MOVED TO APPROVE AND CONFIRM MS. SAGE'S PROPOSED FINDINGS OF FACT,  
CONCLUSIONS, AND ORDER IN THE MATTER OF ROGER J. MASSER, D.P.M. DR. GARG SECONDED  
THE MOTION.

.....  
A roll call vote was taken on Ms. Noble's motion:

ROLL CALL VOTE:	Dr. O'Day	- abstain
	Mr. Albert	- nay
	Dr. Stienecker	- aye
	Dr. Hom	- nay
	Dr. Stephens	- aye
	Dr. Gretter	- aye
	Dr. Heidt	- aye
	Dr. Buchan	- abstain
	Ms. Noble	- aye
	Dr. Garg	- aye

The motion carried.



# **STATE MEDICAL BOARD OF OHIO**

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

November 11, 1992

## **NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING**

**Roger J. Masser, D.P.M.**  
5969 E. Broad St., Suite 302  
Columbus, OH 43213

Dear Doctor Masser:

In accordance with Sections 2929.17 and 4731.223(B), Ohio Revised Code, the Office of the Prosecuting Attorney of Franklin County, Ohio has submitted information which indicates that on or about July 27, 1992 the Franklin County Court of Common Pleas found you Eligible for Treatment in Lieu of Conviction for violations of Section 2925.23, Illegal Processing of Drug Documents, pursuant to Section 2951.041 of the Ohio Revised Code.

Therefore, pursuant to Section 3719.121(C), Ohio Revised Code, you are hereby notified that your license to practice podiatric medicine and surgery in the State of Ohio is immediately suspended. Continued practice after this suspension shall be considered practicing podiatric medicine or surgery without a certificate in violation of Section 4731.60, Ohio Revised Code.

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

- (1) On or about July 27, 1992, in the Franklin County Court of Common Pleas, you pleaded guilty to three (3) felony counts of Illegal Processing of Drug Documents in violation of Section 2925.23 of the Revised Code and to three (3) felony counts of Drug Abuse in violation of Section 2925.11 of the Revised Code. Subsequently, on or about July 27, 1992, the Court found that you were Eligible for Treatment in Lieu of Conviction pursuant to Section 2951.041, Ohio Revised Code.

*M. ... 11/12/92*

The acts, conduct, and/or omissions underlying the above mentioned judicial finding that you were Eligible for Treatment in Lieu of Conviction include writing prescriptions for narcotic medications in the names of patients for your personal use.

This judicial finding of Eligibility for Treatment in Lieu of Conviction and the acts, conduct, and/or omissions underlying this finding as alleged in paragraph (1) above, individually and/or collectively, constitute "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes," as that clause is used in Section 4731.22(B)(3), Ohio Revised Code.

This judicial finding of Eligibility for Treatment in Lieu of Conviction and the acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "soliciting patients or publishing a false, fraudulent, deceptive, or misleading statement," as those clauses are used in Section 4731.22(B)(5), Ohio Revised Code.

This judicial finding of Eligibility for Treatment in Lieu of Conviction and the acts, conduct, and/or omissions underlying this finding as alleged in paragraph (1) above, individually and/or collectively, constitute "the obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice," as that clause is used in Section 4731.22(B)(8), Ohio Revised Code.

This judicial finding of Eligibility for Treatment in Lieu of Conviction and the acts, conduct, and/or omissions underlying this finding as alleged in paragraph (1) above, individually and/or collectively, constitute "commission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.23, Ohio Revised Code and Section 2925.11, Ohio Revised Code.

- (2) On or about the dates indicated below, you issued prescriptions for the drug and amount shown in the name of various patients when in fact you obtained the drug for your own personal use.

<u>Date</u>	<u>Drug</u>	<u>Amount (cc)</u>
01/04/91	Injectable Demerol 100 mg	20
01/21/91	Injectable Demerol 100 mg	20
01/25/91	Injectable Demerol 100 mg	20
02/01/91	Injectable Demerol 100 mg	20
02/06/91	Injectable Demerol 100 mg	20
02/11/91	Injectable Demerol 100 mg	20
02/14/91	Injectable Demerol 100 mg	20
02/15/91	Injectable Demerol 100 mg	20
02/18/91	Injectable Demerol 100 mg	20
02/27/91	Injectable Demerol 100 mg	20
03/05/91	Injectable Demerol 100 mg	20
03/07/91	Injectable Demerol 100 mg	20
03/08/91	Injectable Demerol 100 mg	20
03/18/91	Injectable Demerol 100 mg	20
03/20/91	Injectable Demerol 100 mg	20
03/22/91	Injectable Demerol 100 mg	20
04/29/91	Injectable Demerol 100 mg	20
04/30/91	Injectable Demerol 100 mg	20
05/03/91	Injectable Demerol 100 mg	20
05/08/91	Injectable Demerol 100 mg	20
05/09/91	Injectable Demerol 100 mg	20
05/24/91	Injectable Demerol 100 mg	20
05/28/91	Injectable Demerol 100 mg	20
06/03/91	Injectable Demerol 100 mg	20
06/17/91	Injectable Demerol 100 mg	20
06/14/91	Injectable Demerol 100 mg	20
06/20/91	Injectable Demerol 100 mg	20
06/21/91	Injectable Demerol 100 mg	20
06/27/91	Injectable Demerol 100 mg	20
07/08/91	Injectable Demerol 100 mg	20
07/15/91	Dilaudid 2 mg	20
07/17/91	Injectable Demerol 100 mg	20
07/18/91	Injectable Meperidine 100 mg	20
07/19/91	Dilaudid 2 mg	20
07/23/91	Injectable Meperidine 100 mg	20
07/25/91	Injectable Meperidine 100 mg	20

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07/26/91	Injectable Demerol 100 mg	20
08/02/91	Injectable Demerol 100 mg	20
08/05/91	Injectable Demerol 100 mg	20
08/06/91	Injectable Demerol 100 mg	20
08/07/91	Injectable Demerol 100 mg	20
08/08/91	Injectable Demerol 100 mg	20
08/12/91	Injectable Demerol 100 mg	20
08/13/91	Injectable Meperidine 100 mg	20
08/16/91	Injectable Demerol 100 mg	20
08/21/91	Injectable Demerol 100 mg	20
08/22/91	Injectable Demerol 100 mg	20
08/23/91	Injectable Demerol 100 mg	20
08/26/91	Injectable Demerol 100 mg	20
08/28/91	Injectable Demerol 100 mg	20
08/30/91	Injectable Demerol 100 mg	20
09/04/91	Injectable Demerol 100 mg	20
09/05/91	Injectable Demerol 100 mg	20
09/06/91	Injectable Demerol 100 mg	20
09/09/91	Injectable Demerol 100 mg	20
09/11/91	Injectable Demerol 100 mg	20
09/13/91	Injectable Meperidine 100 mg	20
09/20/91	Injectable Demerol 100 mg	20
09/23/91	Injectable Demerol 100 mg	20
09/25/91	Injectable Demerol 100 mg	20
09/27/91	Injectable Demerol 100 mg	20
03/03/91	Injectable Demerol 100 mg	20
03/16/91	Injectable Demerol 100 mg	20
03/21/91	Injectable Demerol 100 mg	20
04/13/91	Injectable Demerol 100 mg	20
05/02/91	Injectable Demerol 100 mg	20
05/11/91	Injectable Demerol 100 mg	20
07/27/91	Injectable Demerol 100 mg	20
09/13/91	Injectable Demerol 100 mg	20
09/14/91	Injectable Demerol 100 mg	20
09/25/91	Injectable Demerol 100 mg	20

Your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes," as that clause is used in Section 4731.22(B)(3), Ohio Revised Code.

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Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "soliciting patients or publishing a false, fraudulent, deceptive, or misleading statement," as those clauses are used in Section 4731.22(B)(5), Ohio Revised Code.

Further your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "the obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice," as that clause is used in Section 4731.22(B)(8), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "commission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: 2925.11, Drug Abuse, and 2925.23, Illegal Processing of Drug Documents.

- (3) On or about the dates indicated below, you issued prescriptions for the drug and amount shown in various names; you intended these drugs to be used by G. Ford, whom you believed to be addicted to drugs and alcohol.

<u>Date</u>	<u>Drug</u>	<u>Amount (cc)</u>
06/02/91	Injectable Demerol 100 mg	4
03/01/91	Injectable Demerol 100 mg	20
07/12/91	Injectable Meperidine 100 mg	20
08/30/91	Injectable Demerol 100 mg	20
09/11/91	Injectable Demerol 100 mg	20
09/26/91	Methadone 10 mg	30
01/29/91	Injectable Demerol 100 mg	20
06/22/91	Injectable Demerol 100 mg	20
05/04/91	Injectable Demerol 50 mg	30

Your acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively, constitute "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes," as that clause is used in Section 4731.22(B)(3), Ohio Revised Code.

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Further, your acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively, constitute "soliciting patients or publishing a false, fraudulent, deceptive, or misleading statement," as those clauses are used in Section 4731.22(B)(5), Ohio Revised Code.

Further your acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively, constitute "commission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.03(C)(1), Aggravated Trafficking in Drugs, Ohio Revised Code.

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

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,

  
Carla S. O'Day, M.D.  
Secretary

CSO:jmb

Enclosures:

CERTIFIED MAIL # P 055 328 812  
RETURN RECEIPT REQUESTED