CONSENT AGREEMENT
BETWEEN
DANIEL P. GAVIN
AND
THE STATE MEDICAL BOARD OF OHIO

This CONSENT AGREEMENT is entered into by and between DANIEL P. GAVIN and THE STATE MEDICAL BOARD OF OHIO, the state agency charged with enforcing Chapters 4730 and 4731., Ohio Revised Code.

DANIEL P. GAVIN, 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 Section 4730.25(B), Ohio Revised Code, to limit, revoke, or suspend a certificate of registration as a physician assistant, refuse to issue a certificate to an applicant, refuse to reinstate a certificate, 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 Sections 4730.05 and 4730.06, Ohio Revised Code (as in effect prior to 1996) set forth in the Notice of Opportunity for Hearing issued by the BOARD on September 9, 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 Chapter 4730 of the Ohio Revised Code whether occurring before or after the effective date of this AGREEMENT.

C. DANIEL P. GAVIN has applied for a certificate of registration as a Physician Assistant in the State of Ohio.

D. DANIEL P. GAVIN ADMITS the factual allegations contained in paragraphs (a), (b) and (d) in the Notice of Opportunity for Hearing issued by the Board on September 9, 1998. DANIEL P. GAVIN further ADMITS that these facts constitute violations of R.C.4730.05(B), (H) and (J) as well as R.C. 4730.06(A) as in effect prior to March, 1996.

AGREED CONDITIONS

WHEREFORE, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any further formal proceedings at this time, DANIEL P. GAVIN, knowingly and voluntarily agrees with THE STATE MEDICAL BOARD OF OHIO, (hereinafter BOARD), to the following terms, conditions and limitations:

REPRIMAND

I. DANIEL P. GAVIN is hereby REPRIMANDED for the conduct set forth in paragraph D above.

PROBATIONARY CONDITIONS

II. DANIEL P. GAVIN will be granted a certificate of registration as a Physician Assistant subject to the following PROBATIONARY terms, conditions, and limitations:

A. DANIEL P. GAVIN shall obey all federal, state and local laws, and all rules governing physician assistants in Ohio.

B. DANIEL P. GAVIN 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. DANIEL P. GAVIN shall appear in person for quarterly interviews before the BOARD or its designated representative, or as otherwise directed by the BOARD.

If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled. (Example: The first quarterly appearance is scheduled for February, but based upon the physician assistant's serious personal illness he is permitted to delay appearance until April. The next appearance will still be scheduled for May, three months after the appearance as originally scheduled.) Although the BOARD will normally give MR. GAVIN written notification of scheduled appearances, it is MR. GAVIN'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, MR. GAVIN shall immediately submit to the BOARD a written request to be notified of his next scheduled appearance.

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

SUPERVISING PHYSICIAN QUALITY ASSURANCE REPORTS

F. Each physician who enters into a supervision agreement with Mr. Gavin pursuant to R.C. 4730.19 shall provide a written report to the BOARD on a quarterly basis documenting the supervising physician's quality assurance review of Mr. Gavin's practice. The quality assurance review shall be in accordance with the physician assistant utilization plan of the supervising physician that has been approved in accordance with R.C.

4730.18. If multiple physicians from the same group practice enter into supervision agreements with Mr. Gavin, then the group may designate one of the supervising physicians who shall submit the quarterly reports.

Further, the supervising physician[s] shall otherwise monitor Mr. Gavin and provide the BOARD with quarterly reports on his progress and status. The reports of the supervising physician[s] shall be in a form acceptable to the Secretary of the BOARD.

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

REQUIRED REPORTING BY LICENSEE

G. Within thirty (30) days of the effective date of this AGREEMENT, MR. GAVIN shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he contracts to provide physician assistant services, or applies for or receives training, and to all physicians with whom he enters into supervision agreements pursuant to R.C. 4730.19

H. Within thirty (30) days of the effective date of this AGREEMENT, MR GAVIN 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 certificate of registration as a physician assistant. MR. GAVIN 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 a certificate of registration or reinstatement of registration. Further, MR. GAVIN shall provide this BOARD with a copy of the return receipt as proof of notification within thirty (30) days of receiving that return receipt.

FAILURE TO COMPLY

I. MR. GAVIN 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, MR. GAVIN 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 a violation of Section 4730.02 of the Revised Code.

If, in the discretion of the Secretary and Supervising Member of THE STATE MEDICAL BOARD OF OHIO, DANIEL P. GAVIN 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.

DURATION/MODIFICATION OF TERMS

The probationary terms of this AGREEMENT shall remain in force for a minimum of TWO (2) years prior to any request for termination. Otherwise, the above described probationary terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

Periods of time during which MR. GAVIN's certificate of registration as a physician assistant is inactive due to nonpayment of renewal fees will not apply to the reduction of the time periods set forth in this CONSENT AGREEMENT, unless otherwise determined by motion of the BOARD in instances where the BOARD can be assured that the purposes of the probationary monitoring will be fulfilled.

ACKNOWLEDGMENTS/LIABILITY RELEASE

DANIEL P. GAVIN 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.

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

This CONSENT AGREEMENT shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies.

EFFECTIVE DATE

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

Daniel P. Gavin
DANIEL P. GAVIN

APRIL 8 1999
DATE

Douglas C. Boatright
DOUGLAS C. BOATRIGHT
Attorney for Daniel P. Gavin

April 14, 1999
DATE

ANAND G. GARG, M.D.
Secretary

5/12/99
DATE

RAYMOND J. ALBERT
Supervising Member

5/13/99
DATE

REBECCA J. ALBERS
Assistant Attorney General

5/12/99
DATE

gavinca.doc

State Medical Board of Ohio
77 S. High Street, 17th Floor • Columbus, Ohio 43215 • 614/466-3934 • Website www.state.oh.us/med/

September 9, 1998

Daniel P. Gavin
10200 Hawke Road
Columbia Station, Ohio 44028

Dear Mr. Gavin:

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, or suspend your certificate of registration as a physician assistant, refuse to issue or reinstate your certificate, or to reprimand you or place you on probation for one or more of the following reasons:

(1) On or about April 27, 1995, you filed an Application for Registration as a Physician's Assistant (hereinafter APPLICATION) with the State Medical Board of Ohio. That APPLICATION remains pending.

(2) In the "Physician's Assistant Resume" Section of the APPLICATION, you provided the following chronological list of employment:

a. June 1990 to October 1992, Hillcrest Hospital (Meridia), Mayfield Heights, Ohio, with a position of "Physician Staff Assistant (Surgery)."

b. October 1992 to July 1994, Mt. Sinai Medical Center, Lu-Jean Feng, Cleveland, Ohio, with a position of "Dr. Feng Assistant in Surgery (Plastic C/Breast) microvascular."

c. July 1994 to May 1995, University Hospital, A. Larry Boulware, M.D., Cleveland, Ohio, with a position of "Dr. Boulware's Assistant in Internal Medicine."

(3) At no time during the above-mentioned periods were you registered with the State Medical Board of Ohio, nor any other state, as a physician's assistant.

a. In your job application to Mt. Sinai Medical Center, you answered "yes" to the question "Are you registered, licensed or certified in your profession or occupation?" Further, you specified "Surgery-Physician's Assistant."

Mailed 9/10/98
Second mailing 10/29/98

Further, to the question "Ohio License, certification or registration number/TYPE" you answered "910215."

While at Mt. Sinai Medical Center, you worked under Dr. Lu Jean Feng. You functioned as a physician's assistant, conducted pre-surgical physicals and histories, and signed patient records indicating that you were a physician's assistant.

b. You were employed by University Hospital to function as a physician's assistant for Dr. Boulware in his private practice. You functioned as a physician's assistant while employed by University Hospital to work in Dr. Boulware's office. You had a sign on the door to your office which read "Daniel Gavin, P.A." You conducted physical examinations with histories and physicals. You signed your name with "SA/PA-C." You introduced yourself to patients as a physician's assistant.

c. While employed by University Hospital, you completed a form entitled "Supplemental Data CRNA's and Physician's Assistant." on or about August 12, 1994. Said form was in addition to the information which was requested on P.I.E. Mutual Insurance Company's application and renewal application. In response to "Name of CRNA or Physician's Assistant" you wrote "Daniel Gavin." In response to "License Number" you wrote "Certificate # 910215." In response to "State of Licensure" you wrote "Ohio." You signed this form.

d. You discussed your employment at Mt. Sinai and University Hospital with Board Investigator Brenda Harrison on or about September 8, 1995. You informed her that you never performed patient examinations nor did you make patient chart entries while working with Dr. Feng at Mt. Sinai.

Your acts, conduct, and/or omissions as alleged in paragraphs (3)(a), (3)(b), and (3)(c), individually and/or collectively, constitute "[f]ailure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;" as that clause is used in Section 4730.05(B), Ohio Revised Code, to wit: Section 4730.06(A), Ohio Revised Code, as in effect prior to March 5, 1996.

Further, your acts, conduct, and/or omissions as alleged in paragraph (3)(c), 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 4730.05(P), Ohio Revised Code, as in effect prior to March 5, 1996, to wit: Insurance Fraud, Section 2913.47, Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (3)(d), individually and/or collectively, constitute "[s]oliciting patients or publishing a false, fraudulent, deceptive, or misleading statement." as that clause is used in Section 4730.05(J), Ohio Revised Code, as in effect prior to March 5, 1996.

Further, your acts, conduct, and/or omissions as alleged in paragraph (3)(d), individually and/or collectively, constitute "[o]btaining or attempting to obtain registration and certification by fraud or deception;" as that clause is used in Section 4730.05(H), Ohio Revised Code, as in effect prior to March 5, 1996.

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 or suspend your certificate of registration as a physician assistant, refuse to issue or reinstate your certificate 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 #Z 395 591 274
RETURN RECEIPT REQUESTED

cc: Jay E. Feldstein, Esq.
CERTIFIED MAIL #Z 395 591 305
RETURN RECEIPT REQUESTED

SECOND MAILING TO:
385 Commodore Way, #12
Perrysburg, OH 43551
CERTIFIED MAIL NO. Z 233 840 176
RETURN RECEIPT REQUESTED