

**CONSENT AGREEMENT
BETWEEN
ROBERT JOHN VAN KIRK, JR., M.D.
AND
THE STATE MEDICAL BOARD OF OHIO**

OHIO STATE MEDICAL BOARD

JUN 21 2005

This Consent Agreement is entered into by and between Robert John Van Kirk, Jr., M.D., and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

Dr. Van Kirk 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)(5), 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 “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board.”

Further, the Board is empowered by Section 4731.22(A), Ohio Revised Code, to revoke, or refuse to grant a certificate to a person found by the Board to “have committed fraud during the administration of the examination for a certificate to practice or to have committed fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board.”

- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violations of Section 4731.22(B)(5), Ohio Revised Code, and Section 4731.22(A), Ohio Revised Code, as set forth in Paragraph E below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement.

- C. Dr. Van Kirk holds a training certificate to practice medicine and surgery in the State of Ohio, Training Certificate # 57-006422. Dr. Van Kirk further states, and the Board acknowledges, that on or about August 25, 2004, he submitted to the Board an Application for Certificate – Medicine or Osteopathic Medicine, which remains pending to date.
- D. Dr. Van Kirk states that he does not hold a training certificate nor is he is licensed to practice medicine and surgery in any other state or jurisdiction.
- E. Dr. Van Kirk admits that in completing his Application for Certificate – Medicine or Osteopathic Medicine [license application] that he submitted to the Board in or about August 2004, he answered “No” to Question 10, which asks: “Have you ever been requested to appear before any board, bureau, department, agency, or other body, including those in Ohio, concerning allegations against you?” Dr. Van Kirk further states that he answered “Yes” to Questions 15 and 16, which ask, respectively:

Have you ever pled guilty to, been found guilty of a violation of any law, or been granted intervention for treatment in lieu of conviction regardless of the legal jurisdiction in which the act was committed, other than a minor traffic violation?

Have you ever forfeited collateral, bail, or bond for breach or violation of any law, police regulation, or ordinance other than for a minor traffic violation; been summoned into court as a defendant or had any lawsuit filed against you (other than a malpractice suit)?

Dr. Van Kirk admits that although he disclosed information when completing his license application relating to pleading guilty to DUI in or about 1988, and pleading no contest to DUI in or about 1990, he failed to disclose to the Board that, in or about 1990, he was convicted by special court martial while serving in the United States Navy and his service in the United States Navy was terminated by Other Than Honorable Discharge Conditions. Dr. Van Kirk further admits that while serving in the Navy, he took an unauthorized absence, and as a result he was placed in the brig for approximately thirty-six days. In addition, Dr. Van Kirk admits that the “Certificate of Release or Discharge from Active Duty” further indicates that his character of service was specified as bad conduct.

Dr. Van Kirk further admits that in completing his Application for Training Certificate [training application], which he submitted to the Board in or about May 2002, he answered “No” to Question 10, and “Yes” to Questions 15 and 16. Questions 10 and 16 were identical to the questions set forth above in the license application, while Question 15 asked:

Have you ever been convicted or found guilty of a violation of any law, regardless of the legal jurisdiction in which the act was committed, other than a minor traffic violation?

Dr. Van Kirk admits that while he disclosed the same type of information in his training application that he disclosed in connection with his license application, he failed to disclose his conviction by special court martial, and/or any of the circumstances relating to his discharge from the Navy.

Dr. Van Kirk states, and the Board acknowledges, that he disclosed the circumstances of his discharge from the Navy to the Board's Supervising Member and staff during an office conference that was held on or about December 13, 2004. Dr. Van Kirk further states, and the Board acknowledges, that he has fully cooperated with the Board in its investigation, and has released to the Board information and documentation relating to his discharge.

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. Van Kirk shall be granted a certificate to practice medicine and surgery in the State of Ohio, upon receipt and appropriateness of necessary documentation, and Dr. Van Kirk knowingly and voluntarily agrees with the Board to the following PROBATIONARY terms, conditions and limitations:

Obey Laws

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

Quarterly Declarations

2. Dr. Van Kirk shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Consent Agreement becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

Personal Appearances

3. Dr. Van Kirk shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Consent Agreement. Subsequent personal appearances must occur as otherwise

requested by the Board, and shall include an appearance following Dr. Van Kirk's request for termination of this Consent Agreement and prior to his release. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

Noncompliance Will Not Reduce Probationary Period

4. In the event Dr. Van Kirk is found by the Secretary of the Board to have failed to comply with any provision of this Consent Agreement, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Consent Agreement.

Personal Ethics Course

5. Before the end of the first year of probation, or as otherwise approved by the Board, Dr. Van Kirk shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board of its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Van Kirk submits the documentation of successful completion of the course or courses dealing with personal ethics, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

Notification to Board

6. In the event that Dr. Van Kirk becomes aware that he is the subject of a criminal investigation, or if he is arrested for or charged with any criminal offense, other than a minor traffic violation, he shall notify the Board in writing within seven days, specifying the investigating, arresting, or charging entity and the offense for which he is being investigated, arrested or charged.

Required Reporting by Licensee

7. Within thirty days of the effective date of this Consent Agreement, Dr. Van Kirk shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Van Kirk shall provide a copy of this Consent Agreement to all employers or entities with which he contracts to provide health care services, or applies for or receives training,

and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

8. Within thirty days of the effective date of this Consent Agreement, Dr. Van Kirk shall provide a copy of this Consent Agreement by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Van Kirk further agrees to provide a copy of this Consent Agreement by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or for reinstatement of any professional license. Further, Dr. Van Kirk shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Van Kirk 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.

DURATION/MODIFICATION OF TERMS

Dr. Van Kirk shall not request termination of this Consent Agreement for a minimum of two years. In addition, Dr. Van Kirk shall not request modification to the probationary terms, limitations, and conditions contained herein for at least one year. Otherwise, the above-described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Van Kirk 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. Van Kirk 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. Van Kirk 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.


ROBERT JOHN VAN KIRK, JR., M.D.

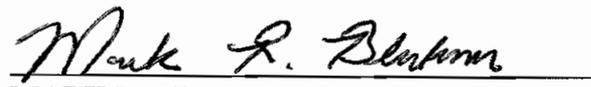

LANCE A. TALMAGE, M.D.
Secretary

6/20/2005
DATE

7-13-05
DATE


RAYMOND J. ALBERT
Supervising Member

7/13/05
DATE


MARK R. BLACKMER
Enforcement Attorney

June 23, 2005
DATE