

**PROBATIONARY CONSENT AGREEMENT
BETWEEN
TAMMY MARIE HABERBERGER, D.O.,
AND
THE STATE MEDICAL BOARD OF OHIO**

OHIO STATE MEDICAL BOARD

MAY 27 2005

This Consent Agreement is entered into by and between Tammy Marie Haberberger, D.O. [Dr. Haberberger], and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

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

BASIS FOR ACTION

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

- A. The Board is empowered by Section 4731.22(B)(19), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for “[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.”
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(19), Ohio Revised Code, as set forth in Paragraph E below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement.
- C. Dr. Haberberger holds a training certificate to practice osteopathic medicine and surgery in the State of Ohio, Training Certificate #58.000626.
- D. Dr. Haberberger states that she does not hold a training certificate nor is she licensed to practice osteopathic medicine or surgery in any other state or jurisdiction.
- E. Dr. Haberberger admits that on or about April 25, 2005, pursuant to Board order, she entered Shepherd Hill, a Board-approved treatment provider in Newark, Ohio, for the purpose of undergoing a three-day inpatient evaluation for determining whether she is in violation of Sections 4731.22(B)(19) and/or (B)(26), Ohio Revised Code. Dr. Haberberger further admits that such evaluation resulted in a finding that she is not

impaired in her ability to practice due to drugs or alcohol, and a determination that she has no psychiatric conditions that prevent her from being able to complete residency training and practice medicine, but did assign her the diagnoses of Attention Deficit Disorder, Mild, and Impulse Control Disorder, Mild, for which ongoing treatment with a psychiatrist and mental health counselor was recommended. Dr. Haberberger further admits that she has been treated by several healthcare providers in the past related to mental health issues; that her training program had requested that she undertake a psychiatric evaluation; and that she was released from her residency training program related to her conduct of issuing an Ambien prescription intended for self-use in the name of a neighbor. Dr. Haberberger further admits that although she appeared at the pharmacy to pickup such Ambien, after being asked to provide identification, she left without receiving the medication.

Dr. Haberberger further admits that on or about November 6, 2002, in the Franklin County Municipal Court in Columbus, Ohio, she was convicted of Disorderly Conduct after being charged with Disorderly Conduct, Resisting Arrest, and Assault, related to an incident that occurred on or about August 12, 2002, during which Dr. Haberberger kicked an officer in the torso after police advised her that she was going to be taken into custody for her own safety in response to comments indicating that she might harm herself.

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

1. Dr. Haberberger shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
2. Dr. Haberberger shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Consent Agreement becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. Dr. Haberberger shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Consent Agreement. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

4. Dr. Haberberger shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
5. In the event Dr. Haberberger 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.
6. The Board retains the right to require, and Dr. Haberberger agrees to submit, blood or urine specimens for analysis of medications that may be prescribed to her, or for any other purpose, at Dr. Haberberger's expense upon the Board's request and without prior notice. Dr. Haberberger'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.

Mental Health Treatment

7. Within thirty days of the effective date of this Consent Agreement, Dr. Haberberger shall submit to the Board for its prior approval the names and qualifications of a psychiatrist and a mental health counselor of her choice. Upon approval by the Board, Dr. Haberberger shall undergo and continue psychiatric treatment no less than once every three months and mental health counseling no less than once every two weeks, or as otherwise directed by the Board. Dr. Haberberger shall ensure that her treating mental health counselor coordinates her treatment plan with her treating psychiatrist at least once every three months. Dr. Haberberger shall comply with her mental health counseling and psychiatric treatment plans, including taking medications as prescribed and/or ordered for her psychiatric disorder.

Dr. Haberberger shall ensure that reports are forwarded by her treating psychiatrist and by her treating mental health counselor to the Board on a quarterly basis, or as otherwise directed by the Board. The reports shall contain information describing Dr. Haberberger's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Haberberger's compliance with her treatment plan; Dr. Haberberger's mental status; Dr. Haberberger's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Haberberger shall ensure that her treating psychiatrist and/or treating mental health counselor immediately notifies the Board of her failure to comply with her treatment plan, and that her treating psychiatrist immediately notifies the Board of any determination that Dr. Haberberger is unable to practice due to her psychiatric

disorder. It is Dr. Haberberger's responsibility to ensure that quarterly reports are received in the Board's offices no later than the due date for Dr. Haberberger's quarterly declaration.

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

Monitoring Physician

8. Before engaging in any medical practice, Dr. Haberberger shall submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a physician who practices in the same locale as Dr. Haberberger and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Haberberger and her medical practice, and shall review Dr. Haberberger's patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Haberberger and her medical practice, and on the review of Dr. Haberberger's patient charts. Dr. Haberberger shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Haberberger's quarterly declaration.

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

While Dr. Haberberger participates in a residency program accredited by the ACGME or AOA, the Board shall accept a quarterly statement from the director of Dr. Haberberger's residency program, or alternatively, from the attending physician specifically designated by the residency director as the person having responsibility to directly oversee Dr. Haberberger's clinical rotations, addressing Dr. Haberberger's performance (clinical and otherwise) in the residency program, as well as her progress and status, if timely submitted, as satisfaction of the requirements of this paragraph. Should Dr. Haberberger desire to utilize this option in lieu of having a monitoring physician while she participates in a residency program, Dr. Haberberger shall so notify the Board by providing a writing, signed by both herself and her residency director, and, if applicable, by the attending physician specifically designated by the residency director as the person having responsibility to directly oversee Dr. Haberberger's clinical rotations, to the Board before participating in the residency program. Further, should Dr. Haberberger cease participation in an accredited residency or should she obtain full osteopathic medical licensure in Ohio and desire to practice outside her residency, or should her residency director or the designated attending physician become unable or unwilling to serve, Dr. Haberberger must immediately so notify the Board in writing and within thirty days make arrangements for a monitoring physician, as discussed above.

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

Releases

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

Required Reporting by Licensee

10. Within thirty days of the effective date of this Consent Agreement, Dr. Haberberger shall provide a copy of this Consent Agreement to all employers or entities with which she is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where she has privileges or appointments. Further, Dr. Haberberger shall provide a copy of this Consent Agreement to all employers or entities with which she contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where she applies for or obtains privileges or appointments.
11. Within thirty days of the effective date of this Consent Agreement, Dr. Haberberger 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 she currently holds any professional license, or currently has an application pending for any professional license. Dr. Haberberger 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 she applies for any professional license or for reinstatement of any professional license. Further, Dr. Haberberger shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

12. Dr. Haberberger shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Haberberger mental health treatment or monitoring.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Haberberger appears to have violated or breached any term or condition of this Consent Agreement, the Board reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including, but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Consent Agreement.

If the Secretary and Supervising Member of the Board determine that there is clear and convincing evidence that Dr. Haberberger has violated any term, condition or limitation of this Consent Agreement, Dr. Haberberger agrees that the violation, as alleged, also constitutes clear and convincing evidence that her continued practice presents a danger of immediate and serious harm to the public for purposes of initiating a summary suspension pursuant to Section 4731.22(G), Ohio Revised Code.

DURATION/MODIFICATION OF TERMS

Dr. Haberberger shall not request termination of this Consent Agreement for a minimum of two years. In addition, Dr. Haberberger 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. Further, all subsequent training certificates and/or any other certificate that may be granted by the Board to Dr. Haberberger shall be subject to the same probationary terms, limitations and conditions, unless otherwise determined by the Board, until, at least, July 1, 2007.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Haberberger acknowledges that she 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. Haberberger 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. Haberberger acknowledges that her social security number will be used if this information is so reported and agrees to provide her social security number to the Board for such purposes.

EFFECTIVE DATE

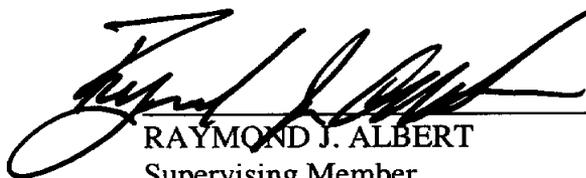
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.


TAMMY MARIE HABERBERGER, D.O.

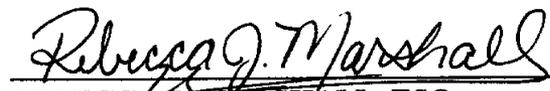
5/25/05
DATE


LANCE A. TALMAGE, M.D.
Secretary

6-8-05
DATE


RAYMOND J. ALBERT
Supervising Member

6/8/05
DATE


REBECCA J. MARSHALL, ESQ.
Enforcement Attorney

May 31, 2005
DATE