

**STEP II  
CONSENT AGREEMENT  
BETWEEN  
ROBERT L. HUBLEY, D.O.  
AND  
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Hubley 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)(26), 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 "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26), Ohio Revised Code, as set forth in Paragraphs E and F of the Step I Consent Agreement Between Robert L. Hubley, D.O., and the State Medical Board of Ohio, effective September 13, 2006 [September 2006 Step I Consent Agreement], and as set forth in Paragraph E below. The Board 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.

A copy of the September 2006 Step I Consent Agreement between the Board and Dr. Hubley is attached hereto and fully incorporated herein.

- C. Dr. Hubley's training certificate in the State of Ohio, Training Certificate # 58-001014, was indefinitely suspended pursuant to the terms of the above referenced September 2006 Step I Consent Agreement. Dr. Hubley states, and the Board

acknowledges, that on or about November 22, 2007, he submitted to the Board an Application for Physician Licensure, which remains pending to date.

- D. Dr. Hubley states that he does not hold a training certificate nor is he licensed to practice osteopathic medicine and surgery in any other state or jurisdiction.
- E. Dr. Hubley admits that after entering residential treatment for chemical dependency on or about August 14, 2006, at Rush Behavioral Health Center [Rush], a Board-approved treatment provider in Oak Park, Illinois, he successfully completed more than twenty-eight days of residential treatment concerning his chemical dependence and was discharged from Rush on or about September 19, 2006. Dr. Hubley states, and the Board acknowledges receipt of information to support, that his discharge diagnoses included opioid dependence, in sustained remission; major depression, single episode in remission; and generalized anxiety disorder.

Dr. Hubley states, and the Board acknowledges receipt of information to support, that since being discharged from Rush, he has remained compliant with the aftercare contract, entitled Treatment and Recovery Contract, he entered into on or about December 27, 2006, with The Cleveland Clinic Foundation [Cleveland Clinic], a Board-approved treatment provider in Cleveland, Ohio, including attending and participating in at least three 12-step meetings per week, attending at least one aftercare meeting per week, and submitting to weekly drug and alcohol testing. Further, Dr. Hubley admits that the aforementioned aftercare contract remains in effect to date.

Dr. Hubley states, and the Board acknowledges, that Gregory B. Collins, M.D., Section Head, Alcohol and Drug Recovery Center at the Cleveland Clinic, has provided a written report indicating that Dr. Hubley's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care, so long as certain treatment and monitoring conditions are in place. Dr. Hubley further states, and the Board acknowledges, that Christopher Adelman, M.D., of St. Vincent Charity Hospital, a Board-approved treatment provider in Cleveland, Ohio, has provided a written report indicating that Dr. Hubley's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care, so long as certain treatment and monitoring conditions are in place.

Dr. Hubley further states, and the Board acknowledges, that Aaron Billowitz, M.D., a psychiatrist approved by the Board to conduct a psychiatric examination of Dr. Hubley, has provided a written report indicating that Dr. Hubley's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care, so long as certain treatment and monitoring conditions are in place, including that he continue to see a psychiatrist once every two months for medication monitoring and supportive therapy.

Accordingly, Dr. Hubley states, and the Board acknowledges receipt of information to support, that Dr. Hubley has fulfilled the conditions for reinstatement of his training certificate or issuance of any other certificate issued by the Board, as established in the above-referenced September 2006 Step I Consent Agreement between Dr. Hubley and the Board. Dr. Hubley further states, and the Board acknowledges receipt of information to support, that Dr. Hubley has entered into an agreement with a program to continue his residency education in family practice.

### **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. Hubley shall be GRANTED a certificate to practice osteopathic medicine and surgery in the State of Ohio, upon receipt of all necessary and appropriate documentation, and Dr. Hubley knowingly and voluntarily agrees with the Board that said certificate to practice osteopathic medicine and surgery shall be subject to the following PROBATIONARY terms, conditions and limitations:

1. Dr. Hubley shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
2. Dr. Hubley shall submit quarterly declarations under penalty of Board disciplinary action and/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 date his quarterly declaration would have been due pursuant to his September 2006 Step I Consent Agreement with the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. Dr. Hubley shall appear in person for an interview before the full Board or its designated representative. The first such appearance shall take place on the date his appearance would have been scheduled pursuant to his September 2006 Step I Consent Agreement with the Board. 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. Hubley 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. Hubley 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.

## **MONITORING OF REHABILITATION AND TREATMENT**

### **Drug Associated Restrictions**

6. Dr. Hubley shall keep a log of all controlled substances prescribed. Such log shall be submitted, in the format approved by the Board, thirty days prior to Dr. Hubley's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Hubley shall make his patient records with regard to such prescribing available for review by an agent of the Board upon request.
7. Dr. Hubley shall not, without prior Board approval, administer, personally furnish, or possess (except as allowed under Paragraph 8 below) any controlled substances as defined by state or federal law. In the event that the Board agrees at a future date to modify this Consent Agreement to allow Dr. Hubley to administer or personally furnish controlled substances, Dr. Hubley shall keep a log of all controlled substances prescribed, administered or personally furnished. Such log shall be submitted in the format approved by the Board thirty days prior to Dr. Hubley's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Hubley shall make his patient records with regard to such prescribing, administering, or personally furnishing available for review by an agent of the Board upon request.

### **Sobriety**

8. Dr. Hubley 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 Dr. Hubley's history of chemical dependency.
9. Dr. Hubley shall abstain completely from the use of alcohol.

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

10. Dr. Hubley shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Hubley 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.

Dr. Hubley shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

Dr. Hubley and the Board agree that the person or entity previously approved by the Board to serve as Dr. Hubley's supervising physician pursuant to the September 2006 Step I Consent Agreement is hereby approved to continue as Dr. Hubley's designated supervising physician under this Consent Agreement, unless within thirty days of the effective date of this Consent Agreement, Dr. Hubley submits to the Board for its prior approval the name and curriculum vitae of an alternative supervising physician to whom Dr. Hubley shall submit the required urine specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Hubley. Dr. Hubley and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

The Board expressly reserves the right to disapprove any person or entity proposed to serve as Dr. Hubley's designated supervising physician, or to withdraw approval of any person or entity previously approved to serve as Dr. Hubley's designated supervising physician, in the event that the Secretary and Supervising Member of the Board determine that any such supervising physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

Dr. Hubley shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, as set forth in the materials provided by the Board to the supervising physician, 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 or her responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Hubley must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Hubley shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her 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 Dr. Hubley's quarterly declaration. It is Dr. Hubley's responsibility to ensure that reports are timely submitted.

11. The Board retains the right to require, and Dr. Hubley agrees to submit, blood or urine specimens for analysis for drugs and alcohol and for analysis of therapeutic levels of medication that may be prescribed for Dr. Hubley's psychiatric disorder or for any other purpose, at Dr. Hubley's expense upon the Board's request and without prior notice. Dr. Hubley'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.

### **Psychiatric Treatment**

12. Within thirty days of the effective date of this Consent Agreement, Dr. Hubley shall submit to the Board for its prior approval the name and qualifications of a psychiatrist of his choice. Upon approval by the Board, Dr. Hubley shall undergo and continue psychiatric treatment and/or monitoring at least once every two months or as otherwise directed by the Board. Dr. Hubley shall comply with his psychiatric treatment/monitoring plan, including taking medications as prescribed and/or ordered for his psychiatric disorder. Dr. Hubley shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the Board on a quarterly basis, or as otherwise directed by the Board. The psychiatric reports shall contain information describing Dr. Hubley's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Hubley's compliance with his treatment plan; Dr. Hubley's mental status; Dr. Hubley's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Hubley shall ensure that his treating psychiatrist immediately notifies the Board of his failure to comply with his psychiatric treatment plan and/or any determination that Dr. Hubley is unable to practice due to his psychiatric disorder. It is Dr. Hubley's responsibility to ensure that quarterly reports are received in the Board's offices no later than the due date for Dr. Hubley's quarterly declaration.

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

The Board expressly reserves the right to disapprove any psychiatrist proposed to serve as Dr. Hubley's designated treating psychiatrist, or to withdraw approval of any psychiatrist previously approved to serve as Dr. Hubley's designated treating psychiatrist, in the event that the Secretary and Supervising Member of the Board

determine that any such psychiatrist has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

### **Monitoring Physician**

13. Before engaging in any medical practice, Dr. Hubley 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. Hubley and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Hubley and his medical practice, and shall review Dr. Hubley'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. Hubley and his medical practice, and on the review of Dr. Hubley's patient charts. Dr. Hubley 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. Hubley's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Hubley must immediately so notify the Board in writing. In addition, Dr. Hubley 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. Hubley 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. Hubley participates in a residency program accredited by the ACGME or AOA, the Board shall accept a quarterly statement from the director of Dr. Hubley's residency program addressing Dr. Hubley's performance (clinical and otherwise) in the residency program, as well as his progress and status, if timely submitted, as satisfaction of the requirements of this paragraph. Should Dr. Hubley desire to utilize this option in lieu of having a monitoring physician while he participates in a residency program, Dr. Hubley shall so notify the Board by providing a writing, signed by both himself and his residency director, to the Board before participating in the residency program. Further, should Dr. Hubley cease participation in an accredited residency or should he obtain full medical licensure in Ohio and desire to practice outside his residency, or should his residency director become unable or

unwilling to serve, Dr. Hubley 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. Hubley's quarterly declaration. It is Dr. Hubley's responsibility to ensure that reports are timely submitted.

#### **Rehabilitation Program**

14. Dr. Hubley shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.

Dr. Hubley shall submit acceptable documentary evidence of continuing compliance with this program which must be received in the Board's offices no later than the due date for Dr. Hubley's quarterly declarations.

#### **Aftercare**

15. Dr. Hubley shall contact an appropriate impaired physicians committee, approved by the Board, to arrange for assistance in recovery or aftercare.
16. Dr. Hubley shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided that, where terms of the aftercare contract conflict with terms of this Consent Agreement, the terms of this Consent Agreement shall control.

#### **Releases**

17. Dr. Hubley shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Hubley's chemical dependency, psychiatric condition or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Hubley further agrees to provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.

#### **Required Reporting by Licensee**

18. Within thirty days of the effective date of this Consent Agreement, Dr. Hubley 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. Hubley 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.
19. Within thirty days of the effective date of this Consent Agreement, Dr. Hubley 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. Hubley 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. Hubley shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
20. Dr. Hubley shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Hubley treatment, evaluation, or monitoring for his chemical dependency, psychiatric illness or mental health, or any related conditions.

#### **FAILURE TO COMPLY**

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

#### **DURATION/MODIFICATION OF TERMS**

Dr. Hubley shall not request termination of this Consent Agreement for a minimum of five years. In addition, Dr. Hubley 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. Hubley 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. Hubley 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. Hubley 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**

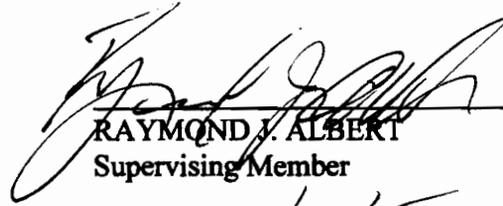
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

  
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ROBERT L. HUBLEY, D.O.

  
\_\_\_\_\_  
LANCE A. TALMAGE, M.D.  
Secretary

1/4/08  
\_\_\_\_\_  
DATE

1-9-08  
\_\_\_\_\_  
DATE

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

*1/9/08*  
\_\_\_\_\_  
DATE

*Mark R. Blackmer*  
\_\_\_\_\_  
MARK R. BLACKMER  
Enforcement Attorney

*January 7, 2008*  
\_\_\_\_\_  
DATE

**STEP I  
CONSENT AGREEMENT  
BETWEEN  
ROBERT L. HUBLEY, D.O.,  
AND  
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Hubley 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)(26), 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 "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26), Ohio Revised Code, as set forth in Paragraphs E and F 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. Hubley currently holds a training certificate in the State of Ohio, Training Certificate # 58-001014. Dr. Hubley previously held a training certificate in Ohio from in or about July 2002 to June 2003, which expired. Dr. Hubley also held a training certificate in Illinois from in or about July 2003 to June 2005, which was cancelled.
- D. Dr. Hubley states that he does not hold a training certificate nor is he licensed to practice osteopathic medicine and surgery in any other state or jurisdiction.

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ROBERT L. HUBLEY, D.O.  
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- E. Dr. Hubley admits that on or about May 20, 2005, when submitting to the Ohio Board his application for a training certificate, he disclosed that he had been engaged in the use of illegal substances within the preceding two-year period, that he had undertaken treatment for chemical dependency, and that he had entered into a monitoring agreement in Illinois during the time he held a training certificate in that state. Dr. Hubley further admits that following further investigation and evaluation of his application, the Board ordered him to submit to a seventy-two hour inpatient evaluation, resulting in a determination that, pursuant to the Board's rules and statutes, Dr. Hubley required treatment, monitoring or supervision in order to be able to practice osteopathic medicine and surgery according to acceptable and prevailing standards of care, and therefore, completion of twenty-eight days of inpatient treatment was required. Dr. Hubley further admits that on or about August 14, 2006, he entered Rush Behavioral Health Center [Rush], a Board-approved treatment provider in Oak Park, Illinois, for additional inpatient treatment, as his prior treatment for chemical dependency did not satisfy the minimum twenty-eight day inpatient treatment requirement.
- F. Dr. Hubley admits that he initially entered treatment for chemical dependency and depression at Rush on or about March 25, 2004. Dr. Hubley states, and the Board acknowledges receipt of information to support, that his prior treatment at Rush included intensive outpatient counseling and medical management. Dr. Hubley further states, and the Board acknowledges receipt of information to support, that he was discharged from Rush on or about June 22, 2004, with the diagnosis of opiate dependence and major depression, recurrent. Dr. Hubley admits that his drug of choice is fentanyl, which he represents that he used from in or about October 2003 to March 2004, in an attempt to self-medicate his depression.

Dr. Hubley states that, prior to his treatment in March 2004 at Rush, he had no previous treatment, inpatient or outpatient, for chemical dependency. Dr. Hubley further states, and the Board acknowledges receipt of information to support, that following his discharge from Rush in June 2004, the treatment team at Rush recommended, in part, that he not return to a residency before June 2005, and that any residency should be outside anesthesiology. Dr. Hubley admits that, after his discharge from Rush, he entered into an aftercare agreement with the Illinois Professional Health Program [IPHP], which agreement is effective from on or about August 9, 2004, to August 8, 2009. Dr. Hubley further admits that pursuant to the terms of his aftercare contract, he agreed to certain terms and conditions, which include participating in random urine toxicology testing at a frequency of 22 to 30 tests per year, abstaining from the use of all mood-altering substances except those prescribed by his treating physician or primary care physician, and not treating himself for any illness, but instead, contacting his primary healthcare provider. Dr. Hubley further admits that upon moving to Ohio in or about June 2005, his participation in the toxicology program of his aftercare contract was interrupted for several months, as he did not realize that IPHP still considered him to be an active member with its program. Dr. Hubley further states, and the Board acknowledges receipt of information to support, that all of his completed random

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toxicology tests have been negative, and Dr. Hubley specifically attests that he has maintained uninterrupted sobriety since his sobriety date, which is March 18, 2004.

Dr. Hubley further admits that he has suffered from clinical depression and generalized anxiety disorder since he was an adolescent, and he has treated on an outpatient basis with psychiatrists and clinical psychologists for several years. Dr. Hubley further admits that by letter dated May 3, 2006, he advised the Board he had not seen a psychiatrist since in or about June 2005, and he was still taking Effexor, as he had received samples of this medication from his clinic with the knowledge of his program director.

Dr. Hubley further admits that on or about August 7, 2006, pursuant to a Board order, he entered Glenbeigh Hospital, a Board-approved treatment provider in Rock Creek, Ohio, for the purpose of undergoing a seventy-two hour inpatient evaluation for determining whether he is in violation of Sections 4731.22(B)(26) and/or (B)(19), Ohio Revised Code. Dr. Hubley further admits that as a result of this evaluation, as noted in Paragraph E above, it was determined that he was impaired due to opiate dependence and inpatient treatment was recommended.

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

#### **SUSPENSION OF CERTIFICATE**

1. The training certificate of Dr. Hubley in the State of Ohio shall be **SUSPENDED** for an indefinite period of time. During such suspension period, Dr. Hubley shall be ineligible to receive or hold any other certificate issued by the Board.

#### Sobriety

2. Dr. Hubley 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 Dr. Hubley's history of chemical dependency.
3. Dr. Hubley shall abstain completely from the use of alcohol.

#### Releases; Quarterly Declarations and Appearances

4. Dr. Hubley shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Hubley's chemical dependency or related conditions, or for purposes of complying with this Consent Agreement, whether

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such treatment or evaluation occurred before or after the effective date of this Consent Agreement. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Hubley further agrees to provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.

5. Dr. Hubley shall submit quarterly declarations under penalty of Board disciplinary action and/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 sixteenth 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.
6. Dr. Hubley 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.

Drug & Alcohol Screens; Supervising Physician

7. Dr. Hubley shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Hubley 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.

Dr. Hubley shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

Within thirty days of the effective date of this Consent Agreement, Dr. Hubley shall submit to the Board for its prior approval the name of a supervising physician to whom Dr. Hubley shall submit the required urine specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Hubley. Dr. Hubley and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the

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Board of any positive screening results.

Dr. Hubley shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, as set forth in the materials provided by the Board to the supervising physician, 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 or her responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Hubley must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Hubley shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her 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 Dr. Hubley's quarterly declaration. It is Dr. Hubley's responsibility to ensure that reports are timely submitted.

8. The Board retains the right to require, and Dr. Hubley agrees to submit, blood or urine specimens for analysis at Dr. Hubley's expense upon the Board's request and without prior notice.

Rehabilitation Program

9. Within thirty days of the effective date of this Consent Agreement, Dr. Hubley shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.

Dr. Hubley shall submit acceptable documentary evidence of continuing compliance with this program which must be received in the Board's offices no later than the due date for Dr. Hubley's quarterly declarations.

**CONDITIONS FOR REINSTATEMENT/ISSUANCE OF CERTIFICATE**

10. The Board shall not consider reinstatement of Dr. Hubley's training certificate or issuance of any other certificate to Dr. Hubley until all of the following conditions are met:

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- a. Dr. Hubley shall submit an application for reinstatement or renewal of his training certificate or an application for issuance of another certificate by the Board, as appropriate, accompanied by appropriate fees, if any.
- b. Dr. Hubley shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
  - i. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Hubley has successfully completed any required inpatient treatment.
  - ii. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
  - iii. Evidence of continuing full compliance with this Consent Agreement.
  - iv. Three written reports indicating that Dr. Hubley's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care.

Two reports shall be made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Hubley. Prior to the assessments, Dr. Hubley shall provide the evaluators with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Consent Agreement. The reports from the evaluators shall include any recommendations for treatment, monitoring, or supervision of Dr. Hubley, and any conditions, restrictions, or limitations that should be imposed on Dr. Hubley's practice. The reports shall also describe the basis for the evaluator's determinations.

One report shall be made by a psychiatrist, approved in advance by the Board, who shall conduct a psychiatric examination of Dr. Hubley. Prior to the examination, Dr. Hubley shall provide the psychiatrist with copies of patient records from any prior evaluations and/or treatment that he has received, and a copy of this Consent Agreement. The report from the evaluating psychiatrist shall include the psychiatrist's diagnoses and conclusions; any recommendations for care, counseling, and treatment for the psychiatric

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diagnoses; any conditions, restrictions, or limitations that should be imposed on Dr. Hubley's practice; and the basis for the psychiatrist's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement.

- c. Dr. Hubley shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board, including the requirement that Dr. Hubley shall obtain approval of the Board for any medical practice or employment related to the health care fields, and contingent upon the future assessments conducted pursuant to paragraph 10.b.iv. above, potentially including a requirement that Dr. Hubley practice in a specialty other than anesthesia if indicated; or, if the Board and Dr. Hubley are unable to agree on the terms of a written Consent Agreement, then Dr. Hubley further agrees to abide by any terms, conditions and limitations imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Ohio Revised Code.

Further, upon reinstatement of Dr. Hubley's training certificate in this state, or issuance of any other certificate to Dr. Hubley by the Board, the Board shall require continued monitoring which shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or renewal of his training certificate or issuance of another license by this Board to him, or with conditions imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Revised Code. Moreover, upon termination of the consent agreement or Board Order, Dr. Hubley shall submit to the Board for at least two years annual progress reports made under penalty of Board disciplinary action or criminal prosecution stating whether Dr. Hubley has maintained sobriety.

11. In the event that Dr. Hubley has not been engaged in the active practice of osteopathic medicine and surgery for a period in excess of two years prior to application for reinstatement or renewal of his training certificate or issuance of another license by the Board, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Hubley's fitness to resume practice.

#### REQUIRED REPORTING BY LICENSEE

12. Within thirty days of the effective date of this Consent Agreement, Dr. Hubley 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. Hubley 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.

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13. Within thirty days of the effective date of this Consent Agreement, Dr. Hubley 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. Hubley 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 reinstatement of any professional license. Further, Dr. Hubley shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
14. Dr. Hubley shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Hubley chemical dependency treatment or monitoring.

The above-described terms, conditions and limitations 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 Board, Dr. Hubley 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.

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

Dr. Hubley 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. Hubley 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. Hubley 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.

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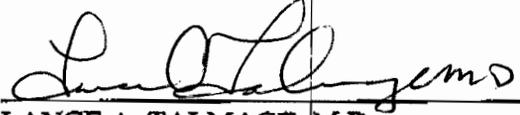
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**EFFECTIVE DATE**

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



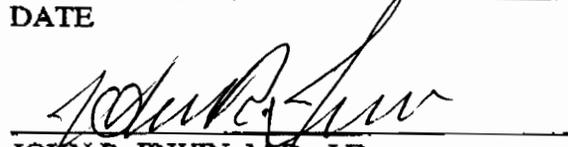
ROBERT L. HUBLEY, D.O.



LANCE A. TALMAGE, M.D.  
Secretary

9/12/06

DATE



JOHN R. IRWIN, M.D., J.D.  
Attorney for Dr. Hubley

9/12/06

DATE

9-13-06

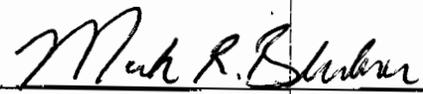
DATE



RAYMOND J. ALBERT  
Supervising Member

9/13/06

DATE



MARK R. BLACKMER  
Enforcement Attorney

September 13, 2006

DATE