

**STEP II  
CONSENT AGREEMENT  
BETWEEN  
DAVID PAUL SPEARS, D.O.,  
AND  
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Spears 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 Step II 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 April 2004 Step I Consent Agreement between Dr. Spears and the Board. 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 Consent Agreement. A copy of the April 2004 Step I Consent Agreement between Dr. Spears and the Board is attached hereto and fully incorporated herein.
- C. Dr. Spears is applying for the reinstatement of his training certificate to practice osteopathic medicine and surgery in the State of Ohio, License # 58-001123, which is currently suspended pursuant to the terms of the above-referenced April 2004 Step I Consent Agreement.

- D. Dr. Spears states that he held a training certificate to practice osteopathic medicine and surgery in West Virginia, and that said certificate expired on December 31, 2004. Dr. Spears further states that he does not hold a training certificate to practice osteopathic medicine and surgery in any other state or jurisdiction, and that he is not licensed to practice osteopathic medicine and surgery in any other state or jurisdiction.
- E. Dr. Spears admits that he was arrested on or about December 20, 2003, in Chapmanville, West Virginia, for a misdemeanor offense of possessing a controlled substance, to wit: OxyContin. Dr. Spears further admits that, on or about February 5, 2004, in the Magistrate Court of Logan County, West Virginia, he was convicted, upon a plea of no contest, of the misdemeanor offense of possessing a controlled substance, and was sentenced to six months probation. Dr. Spears states that he has successfully completed his probationary period and has not been arrested or convicted of any offense since February 2004.
- F. Dr. Spears admits that, on or about February 9, 2004, he entered Talbott Recovery Campus [Talbott], a Board-approved treatment provider in Atlanta, Georgia, for residential treatment for chemical dependence. Dr. Spears further states, and the Board acknowledges receipt of information to support, that he remained in residential or inpatient treatment at Talbott until discharged, treatment complete, on or about March 6, 2004.
- G. Dr. Spears states, and the Board acknowledges receipt of information to support, that, on or about March 31, 2004, Dr. Spears entered into an aftercare contract, entitled "Continuing Care Contract," with Shepherd Hill, a Board-approved treatment provider in Newark, Ohio. Dr. Spears further states, and the Board acknowledges receipt of information to support, that said aftercare contract remains in effect to date, and that he has remained compliant with the terms of said aftercare contract.
- H. Dr. Spears states, and the Board acknowledges, that George M. MacNabb, M.D., of Talbott, has provided a written report indicating that Dr. Spears' ability to practice has been assessed and that he has been found capable of practicing osteopathic medicine and surgery, pursuant to a training certificate, according to acceptable and prevailing standards of care, as long as certain treatment and monitoring requirements, as set forth in the Discharge Summary from Talbott, are in place.
- I. Dr. Spears states, and the Board acknowledges, that Richard N. Whitney, M.D., of Shepherd Hill, has provided a written report indicating that Dr. Spears' ability to practice has been assessed and that he has been found capable of practicing osteopathic medicine and surgery, pursuant to a training certificate, according to acceptable and prevailing standards of care, as long as certain treatment and monitoring requirements are in place, including that Dr. Spears continue with a Naltrexone implant for at least one year. Dr. Spears admits that he has been on

Naltrexone, either orally or by implant, on a continuous basis since February 5, 2004. Dr. Spears states that he is agreement with Dr. Whitney's recommendation that he continue with the Naltrexone implants for at least one year.

- J. Dr. Spears states, and the Board acknowledges receipt of information to support, that Dr. Spears has fulfilled the conditions for reinstatement of his training certificate to practice osteopathic medicine and surgery in the State of Ohio, as established in the above-referenced April 2004 Step I Consent Agreement between Dr. Spears and the Board.

### **AGREED CONDITIONS**

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, the training certificate of Dr. Spears to practice osteopathic medicine and surgery in the State of Ohio shall be reinstated, and Dr. Spears knowingly and voluntarily agrees with the Board to the following PROBATIONARY terms, conditions and limitations:

1. Dr. Spears shall obey all federal, state, and local laws, and all rules governing the practice of osteopathic medicine in Ohio.
2. Dr. Spears 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 April 2004 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. Spears 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 April 2004 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. Spears 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. Spears 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. Spears 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. Spears' personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Spears shall make his patient records with regard to such prescribing available for review by an agent of the Board upon request.
7. Dr. Spears shall not, without prior Board approval, administer, personally furnish, or possess (except as allowed under Paragraphs 8 and 10 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. Spears to administer or personally furnish controlled substances, Dr. Spears 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. Spears' personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Spears 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. Spears 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. Spears' history of chemical dependency.
9. Dr. Spears shall abstain completely from the use of alcohol.
10. Dr. Spears shall maintain a Naltrexone implant as directed by his treatment team. Further, Dr. Spears shall submit acceptable documentary evidence of continuing compliance with this provision which must be received in the Board's offices no later than the due date for Dr. Spears' quarterly declarations.

Following the first year of this consent agreement, Dr. Spears may request modification of this provision so long as his request is accompanied by written documentation from a physician affiliated with a Board-approved treatment provider indicating that such physician has assessed Dr. Spears for purposes of determining whether Dr. Spears continues to require Naltrexone treatment and that, based upon

such assessment, the physician supports Dr. Spears' request to modify or discontinue his Naltrexone implant. Otherwise, Dr. Spears shall make no request for modification of this provision unless the request is accompanied by written documentation from his treating physician and a physician affiliated with a Board-approved treatment provider indicating that such physicians have assessed Dr. Spears and determined that discontinuation of Naltrexone treatment is medically warranted due to resultant negative health consequences. Any assessments and written documentation will be at Dr. Spears' expense.

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

11. Dr. Spears shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Spears 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. Spears 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. Spears shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Dr. Spears 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. Spears. Dr. Spears 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.

Dr. Spears shall ensure that the supervising physician provides to the Board quarterly reports, 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. Spears must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Spears shall further ensure that the previously designated supervising physician also directly notifies the Board 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. Spears' quarterly declaration. It is Dr. Spears' responsibility to ensure that reports are timely submitted.

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

### **Monitoring Physician**

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

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

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Spears must immediately so notify the Board in writing. In addition, Dr. Spears 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. Spears 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. Spears participates in a residency program accredited by the ACGME or the AOA, the Board shall accept, as satisfaction of the requirements of this paragraph, a quarterly statement, if timely submitted, from the director of Dr. Spears' residency program addressing Dr. Spears' performance (clinical and otherwise) in the residency program, as well as his progress and status. Should Dr. Spears desire to utilize this option in lieu of having a monitoring physician while he participates in a residency

program, Dr. Spears shall so notify the Board by providing a writing, signed by both himself and his residency director, to the Board within thirty days of the effective date of this Consent Agreement. Further, should Dr. Spears cease participation in an accredited residency or should he obtain full osteopathic medical licensure in Ohio and desire to practice outside his residency, or should his residency director become unable or unwilling to serve, Dr. Spears must immediately so notify the Board in writing and, within thirty days, make arrangements, acceptable to the Board, for another monitoring physician. All residency director reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Spears' quarterly declaration. It is Dr. Spears' responsibility to ensure that reports are timely submitted.

#### **Practice Plan / Employment Restriction**

14. Should Dr. Spears obtain full osteopathic medical licensure in Ohio, he shall obtain the approval of the Board for any osteopathic medical practice or for any employment related to the health care fields. Dr. Spears shall not engage in the practice of osteopathic medicine, other than continuation of his current residency training program, unless and until such time that he obtains a license to practice osteopathic medicine and surgery in the State of Ohio and the Board has approved a practice plan; and thereafter, Dr. Spears' practice of osteopathic medicine shall be only in accordance with such practice plan. The Board shall consider, among other factors, the adequacy and continuity of supervision, which will ensure the protection of the public, prior to approval or disapproval of the proposed employment. Further, Dr. Spears shall submit a revised practice plan to the Board and obtain the prior approval of the Board should he desire modification to any previously approved practice plan(s).

#### **Rehabilitation Program**

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

Dr. Spears 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. Spears' quarterly declarations.

**Aftercare/ Physician Health Program**

16. Dr. Spears shall maintain continued compliance with the terms of the agreement that he entered into with the Ohio Physicians Health Program, or, if approved in advance by the Board, an agreement with another appropriate physician health program, provided that, where terms of Dr. Spears' agreement with a physician health program conflict with terms of this Consent Agreement, the terms of this Consent Agreement shall control.
17. Dr. Spears 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**

18. Dr. Spears shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment provider 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**

19. Within thirty days of the effective date of this Consent Agreement, Dr. Spears 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. Spears 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.
20. Within thirty days of the effective date of this Consent Agreement, Dr. Spears 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. Spears 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. Spears shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
21. Dr. Spears shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Spears with chemical dependency treatment or monitoring.

### **FAILURE TO COMPLY**

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Spears 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. Spears has violated any term, condition or limitation of this Consent Agreement, Dr. Spears 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**

All subsequent training certificates or other certificates that may be granted by the Board to Dr. Spears shall be subject to the same probationary terms, conditions and limitations, unless otherwise determined by the Board, until Dr. Spears has completed at least a five-year probationary period with the Board. Dr. Spears shall not request termination of this Consent Agreement for a minimum of five years. In addition, Dr. Spears 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. Spears 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.

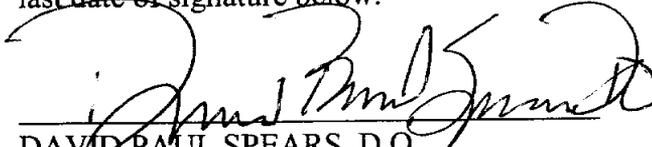
Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

Dr. Spears 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. Spears 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.

  
\_\_\_\_\_  
DAVID PAUL SPEARS, D.O.

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

1/6/05  
DATE

1-12-05  
DATE

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

1/12/05  
DATE

  
\_\_\_\_\_  
KATHLEEN S. PETERSON  
Enforcement Attorney

1/11/05  
DATE

**STEP I**  
**CONSENT AGREEMENT**  
**BETWEEN**  
**DAVID PAUL SPEARS, D.O.,**  
**AND**  
**THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Spears 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. Spears holds a training certificate to practice osteopathic medicine and surgery in the State of Ohio, License # 58-001123.
- D. Dr. Spears states that he holds a training certificate to practice osteopathic medicine or surgery in West Virginia, that he does not hold a training certificate to practice osteopathic medicine or surgery in any other state or jurisdiction and that he is not licensed to practice osteopathic medicine or surgery in any other state or jurisdiction.

- E. Dr. Spears admits that he initially entered treatment for opiate dependence at Talbott Recovery Campus [Talbott], a Board-approved treatment provider in Atlanta, Georgia, in or about May of 2001. Dr. Spears admits that he remained in residential or inpatient treatment at Talbott until discharged, treatment complete, in or about November of 2001. Dr. Spears further admits that, prior to his 2001 admission to Talbott, his drug of choice was heroin and his last use occurred in December of 2000. Dr. Spears further states that, prior to his 2001 admission to Talbott, he had no previous treatment, inpatient or outpatient, for chemical dependence.
- F. Dr. Spears admits that, on or about December 20, 2003, he relapsed on OxyContin, an opiate, and benzodiazepines. Dr. Spears specifically states that his relapse was limited to the ingestion of only OxyContin and benzodiazepines. Dr. Spears further states that he obtained said OxyContin and benzodiazepines "off the street" and specifically denies that he obtained such drugs for self-use by any other means. Dr. Spears admits that, on or about February 9, 2004, he re-entered treatment for chemical dependence at Talbott and remained in residential or inpatient treatment at Talbott until discharged, treatment complete, on or about March 6, 2004. Dr. Spears further admits that this is his first, and only, relapse since his initial treatment at Talbot in 2001 and that, on or about March 22, 2004, he self-reported his relapse to the Board.

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

### **SUSPENSION OF CERTIFICATE**

1. The training certificate of Dr. Spears to practice osteopathic medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time, but not less than ninety days. During such suspension period, Dr. Spears shall be ineligible to receive or hold any other certificate issued by the Board.

### **Sobriety**

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

Releases; Quarterly Declarations and Appearances

4. Dr. Spears 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. Spears' chemical dependency 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. Spears 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. Spears 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. Spears 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 and/or as otherwise requested by 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.

Drug & Alcohol Screens; Supervising Physician

7. Dr. Spears shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Spears 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. Spears 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. Spears shall submit to the Board for its prior approval the name of a supervising physician to whom Dr. Spears 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. Spears. Dr. Spears 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.

Dr. Spears 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. Spears must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Spears 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. Spears' quarterly declaration. It is Dr. Spears' responsibility to ensure that reports are timely submitted.

#### Rehabilitation Program

8. Within thirty days of the effective date of this Consent Agreement, Dr. Spears 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. Spears 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. Spears' quarterly declarations.

**CONDITIONS FOR CONSIDERATION FOR / REINSTATEMENT / RENEWAL /  
ISSUANCE OF CERTIFICATE**

9. The Board shall not consider the reinstatement or renewal of Dr. Spears' training certificate to practice osteopathic medicine and surgery or the issuance of any other certificate to Dr. Spears until all of the following conditions are met:
  - a. Dr. Spears 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. Spears 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. Spears 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. Two written reports indicating that Dr. Spears' ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. The 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. Spears. Prior to the assessments, Dr. Spears 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. Spears, and any conditions, restrictions, or limitations that should be imposed on Dr.

Spears' practice. The reports shall also describe the basis for the evaluator'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. Spears shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board or, if the Board and Dr. Spears are unable to agree on the terms of a written Consent Agreement, then Dr. Spears 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 or renewal of Dr. Spears' training certificate to practice osteopathic medicine and surgery in this state or upon the issuance of any other certificate to Dr. Spears 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. Spears 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. Spears has maintained sobriety.

10. In the event that Dr. Spears 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 for the 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. Spears' fitness to resume practice.

#### **REQUIRED REPORTING BY LICENSEE**

11. Within thirty days of the effective date of this Consent Agreement, Dr. Spears 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. Spears 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. Spears shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

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

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. Spears 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. Spears 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.

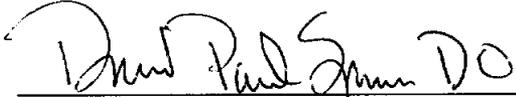
Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

Dr. Spears 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. Spears 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.

  
\_\_\_\_\_  
DAVID PAUL SPEARS, D.O.

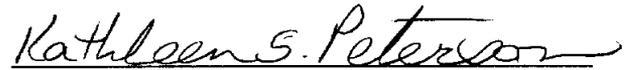
  
\_\_\_\_\_  
LANCE A. TALMAGE, M.D.  
Secretary

4/8/04  
\_\_\_\_\_  
DATE

4-14-04  
\_\_\_\_\_  
DATE

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

4/15/04  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
KATHLEEN S. PETERSON  
Enforcement Attorney

4/9/04  
\_\_\_\_\_  
DATE