BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke Probation Against:	)	
ALAN DALE SABINO, M.D.	)	Case No. D1-2012-220794
Physician's and Surgeon's Certificate No. A 77362	)	
Respondent.	)	

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Medical Board of California, Department of Consumer Affairs, State of California, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on February 14, 2014.

IT IS SO ORDERED January 17, 2014.

MEDICAL BOARD OF CALIFORNIA

Dev Gnanadev MD

By: _____
Dev Gnanadev, M.D., Vice Chairman
Panel B

KAMALA D. HARRIS
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General
MARA FAUST
Deputy Attorney General
State Bar No. 111729
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-5358
Facsimile: (916) 327-2247
Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke Probation Against: **ALAN DALE SABINO, M.D.** **5330 St. Andrews Dr.** **Stockton, CA 95219** **Physician's and Surgeon's Certificate No. A 77362** Respondent.	Case No. D1-2012-220794 OAH No. 2013060758 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Kimberly Kirchmeyer ("Complainant") is the Interim Executive Director of the Medical Board of California. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Mara Faust, Deputy Attorney General.

2. Respondent Alan Dale Sabino, M.D. ("Respondent") is represented in this proceeding by attorney Thomas E. Still, whose address is: Hinshaw, March, Still & Hinshaw, 12901 Saratoga Avenue, Saratoga, California 95070.

3. On or about December 12, 2001, the Medical Board of California issued Physician's and Surgeon's Certificate No. A 77362 to Alan Dale Sabino, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Petition to Revoke Probation No. D1-2012-220794 and will expire on November 30, 2015, unless renewed.

JURISDICTION

4. Petition to Revoke Probation No. D1-2012-220794 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. This Petition To Revoke Probation was based on the underlying Decision and Order No. 16-2012-220794. The Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on May 9, 2013. Respondent timely filed his Notice of Defense contesting the Petition to Revoke Probation.

5. A copy of Petition to Revoke Probation No. D1-2012-220794 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Petition to Revoke Probation No. D1-2012-220794. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Petition to Revoke Probation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits that he began practicing medicine in California, based on verbal clearance, without waiting for the required written report as referenced in Petition to Revoke Probation No. D1-2012-220794.

10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CIRCUMSTANCES IN MITIGATION

11. Respondent Alan Dale Sabino, M.D. did not appreciate that he had to wait for written clearance from the Medical Board of California to return to the practice of medicine and mistakenly believed that verbal clearance from a medical evaluator was sufficient.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 77362 issued to Respondent Alan Dale Sabino, M.D. (Respondent) will be on probation for an additional year, beyond the original 5 year term with the same conditions of probation as set forth in Case No. 16-2012-220794.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Thomas E. Still. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 12/6/13

ALAN DALE SABINO, M.D.
Respondent

I have read and fully discussed with Respondent Alan Dale Sabino, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 12-6-13

Thomas E. Still
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: December 6, 2013

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

MARA FAUST
Deputy Attorney General
Attorneys for Complainant

SA2013308149
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Exhibit A

Petition to Revoke Probation No. D1-2012-220794

KAMALA D. HARRIS
Attorney General of California
GAIL M. HEPPELL
Supervising Deputy Attorney General
MARA FAUST
Deputy Attorney General
State Bar No. 111729
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-5358
Facsimile: (916) 327-2247
Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 9, 2013
BY: [illegible] ANALYST

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke Probation Against: **ALAN DALE SABINO, M.D.** **5330 St. Andrews Dr.** **Stockton, CA 95219** **Physician's and Surgeon's Certificate No. A 77362** Respondent.	Case No. D1-2012-220794 Consolidated Case No. 19-2013-229709 PETITION TO REVOKE PROBATION

Complainant alleges:

PARTIES

1. Linda K. Whitney (Complainant) brings this Petition to Revoke Probation solely in her official capacity as the Executive Director of the Medical Board of California, (hereinafter "Board"), Department of Consumer Affairs.

2. On or about December 12, 2001, the Medical Board of California issued Physician's and Surgeon's Certificate Number A 77362 to Alan Dale Sabino, M.D. (Respondent). The Physician's and Surgeon's Certificate was in effect at all times relevant to the charges brought herein and will expire on November 30, 2013, unless renewed.

3. In a disciplinary action entitled "In the Matter of Accusation Against Alan Dale Sabino, M.D.," Case No. 16-2012-220794, the Medical Board of California, issued a Full Out of

State Suspension Order-No Practice on March 30, 2012. An Accusation was filed on April 24, 2012 and on August 9, 2012, the Full Out of State Suspension Order-No Practice Was Lifted. A decision which was ordered on August 30, 2012, and given an effective date of September 28, 2012, in which respondent's Physician's and Surgeon's Certificate was revoked. However, the revocation was stayed and respondent's Physician's and Surgeon's Certificate was placed on probation for a period of five (5) years with certain terms and conditions, including a condition precedent to practice that respondent take and pass a complete addiction evaluation. A copy of that decision is attached as Exhibit A and is incorporated by reference.

JURISDICTION

4. This Petition to Revoke Probation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

6. The Board's Decision effective September 28, 2012, contains the following provision of paragraph 17: "Failure to fully comply with any term or condition of probation is a violation of probation. If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation, or an Interim Suspension Order is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final."

CAUSE TO REVOKE PROBATION

(Unlawful Practice of Medicine During Period of Probation)

7. At all times after the effective date of Respondent's probation, Condition 5 stated: "Prior to practicing medicine in California, respondent shall provide the Board or its designee access to information or documentation requested by the Board or its designee pertaining to his

monitoring agreement, biological fluid testing, or other information pertaining to his compliance with the Step I and Step II Consent Agreements entered into with the State Medical Board of Ohio. Respondent may be required by the Board or its designee to undergo and complete an addiction evaluation (and psychological testing, if deemed necessary) by a Board-appointed specialist in addiction medicine who shall consider any information provided by the Board or its designee and any other information the examiner(s) deems relevant, and shall furnish a written evaluation report(s) to the Board or its designee." ... "Respondent shall not engage in the clinical practice of medicine in California until notified in writing by the Board or its designee of its determination that he is mentally fit to practice safely."

8. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 5, referenced above. The facts and circumstances regarding this violation are as follows:

A. On or about September 28, 2012, respondent was suspended from the practice of medicine, until the Board reviewed the documentation from the Ohio Medical Board and determined whether an additional evaluation in California was needed.

B. On or about October 4, 2012, respondent was notified by the Medical Board of California that he was required to complete an addiction evaluation and that he was still suspended from practicing. Respondent was seen by the addiction evaluator, Dr. G., on November 16, 2012, and the Board received the report on December 21, 2012, clearing respondent to return to practice. On the same date, of December 21, 2012, a letter was sent to respondent informing him that the period of suspension was lifted.

C. On or about December 22, 2012, respondent sent an acknowledgment e-mail to Inspector Washington stating that his first day of practice would begin on December 22, 2012. On January 6, 2013, the Board received a report from respondent's practice monitor, which indicated that respondent had participated in patient treatment as far back as November 19, 2012.

D. On or about January 16, 2013, respondent was questioned about his dates of practice. Respondent admitted that he began seeing patients immediately after completing his evaluation of November 16, 2012. Respondent's failure to wait until the Board received the evaluator's report

clearing respondent to practice, violates both paragraphs 5 and 17 of the Board's decision, is a violation of probation and constitutes the unlawful practice of medicine.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking the probation that was granted by the Medical Board of California in Case No. 16-2012-220794 and imposing the disciplinary order that was stayed thereby revoking Physician's and Surgeon's Certificate No. A 77362 issued to Alan Dale Sabino, M.D.;

2. Revoking or suspending Physician's and Surgeon's Certificate No. A 77362, issued to Alan Dale Sabino, M.D.;

3. Revoking, suspending or denying approval of Alan Dale Sabino, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;

4. Ordering Alan Dale Sabino, M.D. to pay the Medical Board of California if placed on probation, the costs of probation monitoring;

5. Taking such other and further action as deemed necessary and proper.

DATED: May 9, 2013

LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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Exhibit A

Decision and Order

Medical Board of California Case No. 16-2012-220794

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	)	
	)	
	)	
ALAN DALE SABINO, M.D.	)	Case No. 16-2012-220794
	)	
Physician's and Surgeon's	)	
Certificate No. A 77362	)	
	)	
Respondent.	)	
	)	

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Medical Board of California, Department of Consumer Affairs, State of California, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on September 28, 2012.

IT IS SO ORDERED August 30, 2012.

MEDICAL BOARD OF CALIFORNIA

By: Reginald Low
Reginald Low, M.D., Chair
Panel B

MEDICAL BOARD OF CALIFORNIA
I do hereby certify that this document is a true and correct copy of the original on file in this office.
Chris Hamilton
Signature
For the Custodian of Records
Title
1-30-13
Date

KAMALA D. HARRIS
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General
ESTHER H. LA
Deputy Attorney General
State Bar No. 160706
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5636
Facsimile: (415) 703-5480
Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **ALAN DALE SABINO, M.D.** 4 Tramonti Court Sacramento, CA 95835 Physician's and Surgeon's Certificate No. A 77362 Respondent.	Case No. 16-2012-220794 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board of California. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Esther H. La, Deputy Attorney General.

2. Respondent Alan Dale Sabino, M.D. (Respondent) is represented in this proceeding by attorney Thomas Still, whose address is Hinshaw, Marsh, Still & Hinshaw, 12901 Saratoga Avenue, Saratoga, CA 95070.

3. On or about December 12, 2001, the Medical Board of California issued Physician's and Surgeon's Certificate No. A 77362 to Respondent. Said Certificate will expire on November 30, 2012, unless renewed.

JURISDICTION

4. Accusation No. 16-2012-220794 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent, and Respondent timely filed his Notice of Defense contesting the Accusation. A copy of the Accusation is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with his counsel, and understands the charges and allegations in Accusation No. 16-2012-220794. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 16-2012-220794.

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9. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect. It shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 77362 issued to Respondent Alan Dale Sabino, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. CONTROLLED SUBSTANCES- MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or

cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all the following: 1) the name and address of patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

2. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

3. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the use of products or beverages containing alcohol.

4. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Prior to practicing medicine, Respondent shall contract with a laboratory or service approved in advance by the Board or its designee that will conduct random, unannounced, observed, biological fluid testing. The contract shall require results of the tests to be transmitted by the laboratory or service directly to the Board or its designee within four hours of the results becoming available.

Respondent shall maintain this laboratory or service contract during the period of probation. A certified copy of any laboratory test result may be received in evidence in any proceedings between the Board and Respondent.

If Respondent has a positive biological fluid test, he shall receive written and/or oral notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation.

5. EVALUATION. Prior to practicing medicine in California, Respondent shall provide the Board or its designee access to information or documentation requested by the Board or its designee pertaining to his monitoring agreement, biological fluid testing, or other information pertaining to his compliance with the Step I and Step II Consent Agreements entered into with the State Medical Board of Ohio. Respondent may be required by the Board or its designee to undergo and complete an addiction evaluation (and psychological testing, if deemed necessary) by a Board-appointed specialist in addiction medicine who shall consider any information provided by the Board or its designee and any other information the examiner(s) deems relevant, and shall furnish a written evaluation report(s) to the Board or its designee. In addition to the terms and conditions set forth in this Stipulation, Respondent shall comply with all restrictions or conditions recommended by the evaluator(s) within 15 calendar days after being notified by the Board or its designee. Failure to undergo and complete the evaluation(s), or comply with any required additional conditions or restrictions, is a violation of probation. During the course of probation, and on such a periodic basis as may be required by the Board or its designee, Respondent shall undergo and complete additional evaluation(s). During any evaluation(s) Respondent shall cooperate fully with the evaluator(s), and shall provide the evaluator(s) with access to any information, records or documents that the evaluator(s) may deem pertinent or necessary. Respondent shall pay the cost of all evaluations and psychological testing. Respondent shall not engage in the clinical practice of medicine in California until notified in writing by the Board or its designee of its determination that he is mentally fit to practice safely.

6. PRACTICE MONITOR. At least 30 days prior to engaging in the practice of medicine in California, Respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. The practice monitor shall be in Respondent's field of practice and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision and Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision and Accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation. The monitor shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine and whether Respondent is practicing medicine safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall be suspended

from the practice of medicine until a replacement monitor is approved and prepared to assume immediate monitoring responsibility. Respondent shall cease the practice of medicine within 3 calendar days after being so notified by the Board or designee.

Failure to maintain all records, or to make all appropriate records available for immediate inspection and copying on the premises, or to comply with this condition as outlined above is a violation of probation.

7. WORKSITE MONITOR. At least 30 days prior to engaging in the practice of medicine in California, Respondent shall submit to the Board or its designee for prior approval as a worksite monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be a surgeon, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision and Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision and Accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Throughout probation, Respondent shall be monitored at his workplace by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation. The monitor shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine and whether Respondent

is practicing medicine safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall be suspended from the practice of medicine until a replacement monitor is approved and prepared to assume immediate monitoring responsibility. Respondent shall cease the practice of medicine within 3 calendar days after being so notified by the Board or designee.

Failure to maintain all records, or to make all appropriate records available for immediate inspection and copying on the premises, or to comply with this condition as outlined above is a violation of probation.

This condition of having a worksite monitor will not apply if the practice monitor approved under Condition 6 above has no prior or current business or personal relationship with Respondent.

8. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: 1) Respondent merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that location.

9. NOTIFICATION. Prior to engaging in the practice of medicine, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent.

Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days. This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

10. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is prohibited from supervising physician assistants.

11. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

12. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

13. PROBATION UNIT COMPLIANCE. Respondent shall comply with and fully cooperate with the Board's probation unit. Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b). Respondent shall not engage in the practice of medicine in Respondent's place of residence. Respondent shall maintain a current and renewed California physician's and surgeon's license. Respondent shall immediately inform the Board, or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days.

14. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

15. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine in California as defined in

Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years. Periods of non-practice will not apply to the reduction of the probationary term. Periods of non-practice will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; and General Probation Requirements.

16. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

17. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

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18. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

19. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Thomas Still. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 7-30-12

ALAN DALE SABINO, M.D.
Respondent

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I have read and fully discussed with Respondent Alan Dale Sabino, M.D., the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 7/30/12

THOMAS STILL
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General

ESTHER H. LA
Deputy Attorney General
Attorneys for Complainant

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I have read and fully discussed with Respondent Alan Dale Sabino, M.D., the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____

THOMAS STILL
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: August 1, 2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General

Esther H. La

ESTHER H. LA
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 16-2012-220794

KAMALA D. HARRIS
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General
ESTHER H. LA
Deputy Attorney General
State Bar No. 160706
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5636
Facsimile: (415) 703-5480
Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO April 24, 2012
BY: [signature] ANALYST

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **ALAN DALE SABINO, M.D.** 4 Tramonti Court Sacramento, CA 95835 Physician's and Surgeon's Certificate No. A 77362 Respondent.	**Case No. 16-2012-220794** **ACCUSATION** **MEDICAL BOARD OF CALIFORNIA** **I do hereby certify that this document is a true and correct copy of the original on file in this office.** Cliff Hamilton Signature For the Custodian of Records Title 01-30-13 Date

The Complainant alleges:

1. Complainant Linda K. Whitney is the Executive Director of the Medical Board of California, Department of Consumer Affairs, and brings this Accusation solely in her official capacity.

2. On December 12, 2001, Physician's and Surgeon's Certificate No. A77362 was issued by the Medical Board of California (Board) to Alan Dale Sabino, M.D. (Respondent). Said certificate is currently suspended based on full license restrictions pursuant to section 2310(a) of the California Business and Professions Code.

JURISDICTION

3. This Accusation is brought before the Medical Board of California[1], under the authority of the following sections of the California Business and Professions Code ("Code") and/or other relevant statutory enactment:

A. Section 2227 of the Code provides that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring.

B. Section 2305 of the Code provides that the revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license to practice medicine issued by that state, that would have been grounds for discipline in California under the Medical Practice Act, constitutes grounds for discipline for unprofessional conduct.

C. Section 141 of the Code provides:

> "(a) For any licensee holding a license issued by a board under the jurisdiction of a department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or by another country shall be conclusive evidence of the events related therein.
>
> "(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by the board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

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[1] The term "Board" means the Medical Board of California; "Division of Medical Quality" shall also be deemed to refer to the Board.

FIRST CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Another State)

4. On or about November 9, 2011, the State Medical Board of Ohio ("Ohio Board") and Respondent entered into a Step I Consent Agreement ("Consent Agreement") which resulted in the suspension of Respondent's license to practice in Ohio for an indefinite period of time, but not less than 180 days. The Consent Agreement was based, in part, on the following admissions made by Respondent: Respondent admitted that he was impaired in his ability to practice due to substance abuse/dependency, for which he was seeking treatment; Respondent admitted that, in or around June 2011, he began to self-medicate with Dilaudid and Fentanyl due to neck pain, and he also began to abuse Versed in or about September 2011; Respondent admitted that he inappropriately obtained his drugs for self-use by substituting saline for excess medication from operative procedures, retaining the excess, and discarding the saline as waste medication; Respondent admitted that he falsely overstated the dosages administered to patients to facilitate his diversion of a portion of the medication; and Respondent admitted that on a few occasions he used Dilaudid or Fentanyl near the end of his work shift. In addition to the suspension of Respondent's license, the Consent Agreement also provides for interim monitoring conditions, including submitting to random urine screenings for drugs and alcohol; completion of an alcohol and drug rehabilitation program; and entering into a post-discharge aftercare contract with an approved treatment provider. The Consent Agreement also provides for conditions for reinstatement, including a requirement that Respondent enter into a subsequent consent agreement incorporating probationary terms, conditions and limitations to be determined by the Ohio Board. A copy of the November 9, 2011 Consent Agreement between Respondent and the Ohio Board is attached as Exhibit A.

5. Respondent's conduct and the action of the Ohio Board as set forth in paragraph 4, above, constitute grounds for disciplinary action for unprofessional conduct within the meaning of Code section 2305 and grounds for disciplinary action within the meaning of Code section 141.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate No. A 77362 issued to Respondent Alan Dale Sabino, M.D.;

2. Revoking, suspending or denying approval of Respondent's authority to supervise physician assistants;

3. Ordering Respondent, if placed on probation, to pay the costs probation monitoring; and

4. Taking such other and further action as the Board deems necessary and proper.

DATED: April 24, 2012

LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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Exhibit A

State Medical Board of Ohio
30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

CERTIFICATION

I hereby certify that the attached November 9, 2011, Step I Consent Agreement is a true and complete copy as it appears in the records of the State Medical Board of Ohio in the Matter of **Alan Dale Sabino, M.D.**

This certification is made by authority of the State Medical Board and on its behalf.

Barbara A. Jacobs
Senior Executive Staff Attorney

(SEAL)

January 31, 2012
Date

STATE MEDICAL BOARD
OF OHIO

2011 NOV -7 PM 12: 16

STEP I
CONSENT AGREEMENT
BETWEEN
ALAN DALE SABINO, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

This Consent Agreement is entered into by and between Alan Dale Sabino, M.D., [Dr. Sabino], and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

Dr. Sabino 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), 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 violation of Section 4731.22(B)(26), Ohio Revised Code, 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," and Section 4731.22(B)(10), Ohio Revised Code, "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed.".

B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26) and (B)(10), to wit: Section 2925.22, Ohio Revised Code, Deception to Obtain a Dangerous Drug, as set forth in Paragraph (E) below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement.

C. Dr. Sabino is licensed to practice medicine and surgery in the State of Ohio, License number 35.084776.

D. Dr. Sabino states that he is also licensed to practice medicine and surgery in the State of California.

E. On or about October 31, 2011, Dr. Sabino self-reported to the Board that he is currently impaired in his ability to practice medicine and surgery according to acceptable and prevailing standards of care, and that he entered treatment for substance abuse/dependency at Shepherd Hill, a Board approved treatment provider in Newark, Ohio, on or about October 29, 2011. Subsequently, on or about November 2, 2011, Dr. Sabino left Shepherd Hill to enter treatment at the Lindner Center of Hope, a Board approved treatment provider in Mason, Ohio, for the reason that it is closer to his home. Dr. Sabino further admits that his drugs of choice are Fentanyl, Dilaudid, and Versed. Dr. Sabino admits that in or about June 2011 he began to self-medicate with Dilaudid and Fentanyl due to neck pain caused by a medical condition, and that he subsequently also began abusing Versed in or about September 2011.

Dr. Sabino further admits that he inappropriately obtained his drugs for self-use by substituting saline for excess medication from operative procedures, retaining the excess, and discarding the saline as waste medication. Dr. Sabino acknowledges that he would add a small amount of the diverted drug to the saline so, if tested, it would still reveal the presence of the diverted drug. Dr. Sabino specifically denies that he ever deprived any patient of the clinically appropriate amount of drugs needed during an operative procedure, but admits that in the operative medical record he would falsely overstate the dosage administered to the patient to facilitate his diversion of a portion of the medication for self-use. Dr. Sabino further admits that on a few occasions, he used Dilaudid or Fentanyl near the end of his work shift, and after patients were in recovery, but asserts that he confined his use of Versed to non-working hours. Dr. Sabino specifically denies that he obtained drugs for self-use in any manner other than as described herein.

Dr. Sabino further states that he is not aware of any criminal charges being pending against him at this time, and that he has not actively engaged in the practice of medicine since the date of entering treatment on October 29, 2011.

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

SUSPENSION OF CERTIFICATE

1. The certificate of Dr. Sabino to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than 180 days.

Obey all Laws

2. Dr. Sabino shall obey all federal, state, and local laws.

Sobriety

3. Dr. Sabino shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Sabino's history of chemical dependency. Further, in the event that Dr. Sabino is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Sabino shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. Sabino received; the medical purpose for which he received said drug; the date such drug was initially received; and the dosage, amount, number of refills, and directions for use. Further, within thirty days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Sabino shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.

4. Dr. Sabino shall abstain completely from the use of alcohol.

Absences from Ohio

5. Dr. Sabino 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. Further, the Secretary and Supervising Member of the Board shall have the discretion to grant a waiver of part or all of the monitoring terms set forth in this Consent Agreement for occasional periods of absence of fourteen days or less. In the event that Dr. Sabino resides and/or is employed at a location that is within fifty miles of the geographic border of Ohio and any of its contiguous states, Dr. Sabino may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Sabino is able to otherwise maintain full compliance with all other terms, conditions and limitations set forth in this Consent Agreement.

Releases; Quarterly Declarations and Appearances

6. Dr. Sabino 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. Sabino's 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. To the extent permitted by law, 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. Sabino 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.

7. Dr. Sabino 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, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

8. Dr. Sabino 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; Drug Testing Facility and Collection Site

9. Dr. Sabino shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Sabino 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, and shall include Dr. Sabino's drug(s) of choice.

   Dr. Sabino shall abstain from the use of any substance and the consumption of poppy seeds or any other food or liquid that may produce a low level positive result in a toxicology screen. Dr. Sabino acknowledges that he understands that the consumption or use of such substances, including but not limited to substances such as mouthwash or hand cleaning gel, may cause a positive drug screen that may not be able to be differentiated from intentional ingestion, and therefore such consumption or use is prohibited under this Consent Agreement.

   All such urine screenings for drugs and alcohol shall be conducted through a Board-approved drug testing facility and collection site pursuant to the global contract between said facility and the Board, that provides for the Board to maintain ultimate control over the urine screening process and to preserve the confidentiality of all positive screening results in accordance with Section 4731.22(F)(5), Ohio Revised Code, and the screening process shall require a daily call-in procedure. Further, in the event that the Board

exercises its discretion, as provided in Paragraph 10 below, to approve urine screenings to be conducted at an alternative drug testing facility and/or collection site or a supervising physician, such approval shall be expressly contingent upon the Board retaining ultimate control over the urine screening process in a manner that preserves the aforementioned confidentiality of all positive screening results.

Dr. Sabino shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by Dr. Sabino shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Consent Agreement. Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Consent Agreement.

Further, within thirty days of the effective date of this Consent Agreement, Dr. Sabino shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug testing facility and/or collection site in order to facilitate the urine screening process in the manner required by this Consent Agreement. Further, Dr. Sabino shall promptly provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Sabino and the Board-approved drug testing facility and/or collection site. Dr. Sabino's failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Consent Agreement.

Dr. Sabino shall ensure that the urine screening process performed through the Board-approved drug testing facility and/or collection site requires a daily call-in procedure; 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, Dr. Sabino and the Board-approved drug testing facility and collection site shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Dr. Sabino shall ensure that the Board-approved drug testing facility and/or collection site provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.

In the event that the Board-approved drug testing facility and/or collection site becomes unable or unwilling to serve as required by this Consent Agreement, Dr. Sabino must immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 10 below, as soon as practicable. Dr. Sabino shall further ensure that the Board-approved drug testing facility and/or collection site also notifies the Board directly of its inability to continue to serve and the reasons therefore.

Dr. Sabino acknowledges that the Board expressly reserves the right to withdraw its approval of any drug testing facility and/or collection site in the event that the Secretary and Supervising Member of the Board determine that the drug testing facility and/or collection site has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

10. Dr. Sabino and the Board agree that it is the intent of this Consent Agreement that Dr. Sabino shall submit his urine specimens to the Board-approved drug testing facility and collection site chosen by the Board. However, in the event that utilizing said Board-approved drug testing facility and/or collection site creates an extraordinary hardship upon Dr. Sabino, as determined in the sole discretion of the Board, then subject to the following requirements, the Board may approve an alternate drug testing facility and/or collection site, or a supervising physician, to facilitate the urine screening process for Dr. Sabino:

    a. Within thirty days of the date upon which Dr. Sabino is notified of the Board's determination that utilizing the Board-approved drug testing facility and/or collection site constitutes an extraordinary hardship upon Dr. Sabino, he shall submit to the Board in writing for its prior approval the identity of either an alternate drug testing facility and collection site, or the name of a proposed supervising physician, to whom Dr. Sabino shall submit the required urine specimens. In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Sabino's residence or employment location, or to a physician who practices in the same locale as Dr. Sabino. Dr. Sabino shall ensure that the urine screening process performed through the alternate drug testing facility and/or collection site, or through the supervising physician, requires a daily call-in procedure; 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, Dr. Sabino acknowledges that the alternate drug testing facility and collection site, or the supervising physician, shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

    b. Dr. Sabino shall ensure that the alternate drug testing facility and/or collection site, or the supervising physician, provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.

    c. In the event that the designated alternate drug testing facility and/or collection site, or the supervising physician, becomes unable or unwilling to so serve, Dr. Sabino must immediately notify the Board in writing. Dr. Sabino shall further ensure that

the previously designated alternate drug testing facility and collection site, or the supervising physician, also notifies the Board directly of the inability to continue to serve and the reasons therefore. Further, in order to ensure that there will be no interruption in his urine screening process, upon the previously approved alternate drug testing facility, collection site, or supervising physician becoming unable to serve, Dr. Sabino shall immediately commence urine screening at the Board-approved drug testing facility and collection site chosen by the Board, until such time, if any, that the Board approves a subsequent alternate drug testing facility, collection site, or supervising physician, if requested by Dr. Sabino.

d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Sabino's designated alternate drug testing facility and/or collection site, or any person proposed to serve as his supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

11. All screening reports required under this Consent Agreement from the Board-approved drug testing facility and/or collection site, or from the alternate drug testing facility and/or collection site or supervising physician, must be received in the Board's offices no later than the due date for Dr. Sabino's quarterly declaration. It is Dr. Sabino's responsibility to ensure that reports are timely submitted.

12. The Board retains the right to require, and Dr. Sabino agrees to submit, blood, urine, breath, saliva and/or hair specimens for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Sabino, or for any other purpose, at Dr. Sabino's expense upon the Board's request and without prior notice. Dr. Sabino's refusal to submit a specimen upon request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.

Rehabilitation Program

13. Within thirty days of the effective date of this Consent Agreement, Dr. Sabino 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. Sabino shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Sabino's quarterly declarations.

14. Immediately upon completion of any required treatment for chemical dependency, Dr. Sabino shall enter into an aftercare contract with a Board-approved treatment provider and shall maintain continued compliance with the terms of said aftercare contract, provided that, where the terms of the aftercare contract conflict with the terms of this Consent Agreement, the terms of this Consent Agreement shall control.

CONDITIONS FOR REINSTATEMENT

15. The Board shall not consider reinstatement or restoration of Dr. Sabino's certificate to practice medicine and surgery until all of the following conditions are met:

    a. Dr. Sabino shall submit an application for reinstatement or restoration, as appropriate, accompanied by appropriate fees, if any.

    b. Dr. Sabino 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. Sabino has successfully completed any required inpatient treatment, including at least twenty-eight days of inpatient or residential treatment for chemical abuse/dependence, as set forth in Rules 4731-16-02 and 4731-16-08, Ohio Administrative Code, completed consecutively.

        ii. Evidence of continuing full compliance with, or successful completion of, 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. Sabino's 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. Sabino. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Sabino 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. Sabino, and any conditions, restrictions, or limitations that should be imposed on Dr. Sabino's 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. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

v. In the event that the Board initiates future formal proceedings against Dr. Sabino, including but not limited to issuance of a Notice of Opportunity for Hearing, Dr. Sabino shall be ineligible for reinstatement until such proceedings are fully resolved by ratification by the Board of a subsequent Consent Agreement or issuance by the Board of a final Board Order.

c. Dr. Sabino shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board within 180 days of the date upon which all the above-specified conditions for reinstatement or restoration have been completed, potentially including a requirement that Dr. Sabino practice in a specialty other than anesthesia if indicated based upon the future assessments conducted pursuant to paragraph 15.b.iv. above; or, if the Board and Dr. Sabino are unable to agree on the terms of a written Consent Agreement, then Dr. Sabino 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. The Board shall provide notice to Dr. Sabino that said hearing has been scheduled, advising Dr. Sabino of his hearing rights, and stating the date, time, and location of the hearing at which the Board will present its evidence, after which the Board will make a determination of the matter by Board Order.

Further, upon reinstatement of Dr. Sabino's certificate to practice medicine and surgery in this state, 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 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. Sabino 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. Sabino has maintained sobriety.

16. In the event that Dr. Sabino has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Sabino's fitness to resume practice.

REQUIRED REPORTING BY LICENSEE

17. Within thirty days of the effective date of this Consent Agreement, Dr. Sabino shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services (including but not limited to third party payors) or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Sabino shall promptly 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. In the event that Dr. Sabino provides any health care services or health care direction or medical oversight to any emergency medical services organization or emergency medical services provider, within thirty days of the effective date of this Consent Agreement Dr. Sabino shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, Dr. Sabino shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

18. Within thirty days of the effective date of this Consent Agreement, Dr. Sabino shall provide a copy of this Consent Agreement to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Dr. Sabino further agrees to provide a copy of this Consent Agreement 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. Sabino shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered,

(3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

19. Dr. Sabino shall promptly provide a copy of this Consent Agreement to all persons and entities that provide Dr. Sabino chemical dependency treatment or monitoring. Further, Dr. Sabino shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

20. Dr. Sabino shall notify the Board in writing of any change of principal practice address or residence address within thirty days of such change.

DURATION/MODIFICATION OF TERMS

The above-described terms, conditions and limitations may be amended or terminated in writing at any time upon the agreement of both parties. In the event that the Board initiates future formal proceedings against Dr. Sabino, including but not limited to issuance of a Notice of Opportunity for Hearing, this Consent Agreement shall continue in full force and effect until such time that it is superseded by ratification by the Board of a subsequent Consent Agreement or issuance by the Board of a final Board Order.

In the event that any term, limitation, or condition contained in this Consent Agreement is determined to be invalid by a court of competent jurisdiction, Dr. Sabino and the Board agree that all other terms, limitations, and conditions contained in this Consent Agreement shall be unaffected.

FAILURE TO COMPLY

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

MD

ALAN DALE SABINO, M.D.

11/4/11

DATE

Lance A. Talmage, MD by

LANCE A. TALMAGE, M.D. by authorization
Secretary

Nov. 9, 2011

DATE

MD

JACK C. AMATO, M.D.
Supervising Member

11/9/11

DATE

SHELDON SAFKO
Enforcement Attorney

11-07-11

DATE