

**STEP II  
CONSENT AGREEMENT  
BETWEEN  
WILLIAM FRANCIS POPOVICH, M.D.  
AND  
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Popovich 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 a 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;" Section 4731.22(B)(15), Ohio Revised Code, for "[v]iolation of the conditions of limitation placed by the board upon a certificate to practice;" and/or Section 4731.22(B)(19), Ohio Revised Code, for an "[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Sections 4731.22(B)(26); 4731.22(B)(15); and 4731.22(B)(19), Ohio Revised Code, as set forth in Paragraph E, below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement.

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- C. Dr. Popovich is seeking reinstatement of his certificate to practice medicine and surgery, license number 35.089778, which was indefinitely suspended, but not less than one year, pursuant to the Superseding Step I Consent Agreement Between William Francis Popovich, M.D. and the State Medical Board of Ohio [May 2012 Step I Consent Agreement], effective May 9, 2012.
- D. Dr. Popovich states that he is not licensed to practice in any other state or jurisdiction.
- E. Dr. Popovich admits that after suffering a relapse on Tramadol, on or about December 31, 2012, he entered the Center for Chemical Addictions Treatment [CCAT], a Board-approved treatment provider in Cincinnati, Ohio, and was discharged, treatment complete, on or about January 27, 2013.

Dr. Popovich states, and the Board acknowledges receipt of information to support, that on or about May 24, 2013, he entered into an aftercare contract with the Cleveland Clinic Foundation [CCF], a Board-approved treatment provider, and that he is in compliance with such aftercare contract, which remains in effect.

Further, Dr. Popovich admits and the Board acknowledges receipt of a written report provided by Gregory B. Collins, M.D., Section Head of the Alcohol and Drug Recovery Center at CCF, in which Dr. Collins opined that Dr. Popovich exhibits symptoms of his previously diagnosed depressive psychiatric condition and that his recovery from a dual problem of chemical dependency and depression has been outstanding. Dr. Collins recommended that Dr. Popovich continue monthly psychiatric sessions for psychotherapy, medication management and recovery program oversight. Dr. Collins further found that Dr. Popovich is capable of practicing according to acceptable and prevailing standards of care, subject to certain conditions.

Dr. Popovich further states, and the Board acknowledges receipt of information to support, that Nyk Pidhorodeckyj, M.D., and Craig T. Pratt, M.D., physicians knowledgeable in addiction medicine and approved by the Board, have each provided a written report indicating that Dr. Popovich's ability to practice has been assessed and that he has been determined to be capable of practicing according to acceptable and prevailing standards of care, subject to certain conditions.

Accordingly, Dr. Popovich states, and the Board acknowledges receipt of information to support, that Dr. Popovich has substantially fulfilled the conditions for reinstatement of his certificate to practice medicine and surgery in the State of Ohio as established under the May 2012 Step I Consent Agreement.

**AGREED CONDITIONS**

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

1. Dr. Popovich shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
2. Dr. Popovich 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 May 2012 Step I Consent Agreement with the Board, 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.
3. Dr. Popovich 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 May 2012 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. Popovich 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 probationary terms set forth in this Consent Agreement for occasional periods of absence of fourteen days or less. In the event that Dr. Popovich 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. Popovich may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Popovich is able to otherwise maintain full compliance with all other terms, conditions and limitations set forth in this Consent Agreement.
5. In the event Dr. Popovich 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.

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## MONITORING OF REHABILITATION AND TREATMENT

### Drug Associated Restrictions

6. Dr. Popovich shall keep a log of all controlled substances prescribed. Such log shall be submitted, in the format approved by the Board, on the date upon which Dr. Popovich's quarterly declaration is due, or as otherwise directed by the Board. Further, Dr. Popovich shall make his patient records with regard to such prescribing available for review by an agent of the Board immediately upon request.
7. Dr. Popovich shall not, without prior Board approval, administer, personally furnish, or possess (except as allowed under Paragraph 8 below) any controlled substances as defined by state or federal law. In the event that the Board agrees at a future date to modify this Consent Agreement to allow Dr. Popovich to administer or personally furnish controlled substances, Dr. Popovich 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 and shall be submitted to the Board no later than the date upon which Dr. Popovich's quarterly declaration is due, or as otherwise directed by the Board. Further, Dr. Popovich shall make his patient records with regard to such prescribing, administering, or personally furnishing available for review by an agent of the Board immediately upon request.

### Sobriety

8. Dr. Popovich 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. Popovich's history of chemical dependency and psychiatric condition. Further, in the event that Dr. Popovich is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Popovich shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. Popovich 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. Popovich 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.
9. Dr. Popovich shall abstain completely from the use of alcohol.

### Drug and Alcohol Screens/Drug Testing Facility and Collection Site

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

Dr. Popovich 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. Popovich 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 11 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. Popovich shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by Dr. Popovich 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. Popovich 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. Popovich shall promptly provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Popovich and the Board-approved drug testing facility and/or collection site. Dr. Popovich's failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such

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arrangements, shall constitute a violation of this Consent Agreement. However, Dr. Popovich and the Board further agree that in the event Dr. Popovich previously entered into the aforementioned financial and contractual agreements pursuant to the requirements of a prior consent agreement with the Board under which Dr. Popovich is currently participating in an ongoing urine screening process, then this requirement shall be waived under the instant consent agreement.

Dr. Popovich 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. Popovich 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. Popovich 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. Popovich must immediately notify the Board in writing, and make arrangements acceptable to the Board pursuant to Paragraph 11 below, as soon as practicable. Dr. Popovich 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. Popovich 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.

11. Dr. Popovich and the Board agree that it is the intent of this Consent Agreement that Dr. Popovich 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. Popovich, 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. Popovich:

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- a. Within thirty days of the date upon which Dr. Popovich 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. Popovich, 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. Popovich 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. Popovich's residence or employment location, or to a physician who practices in the same locale as Dr. Popovich. Dr. Popovich 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. Popovich 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. Popovich 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. Popovich must immediately notify the Board in writing. Dr. Popovich 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. Popovich 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. Popovich.
- d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Popovich'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

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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.

- e. In the event that the Board approved an alternate drug testing facility and/or collection site, or a supervising physician, pursuant to the May 2012 Step I Consent Agreement between Dr. Popovich and the Board, Dr. Popovich and the Board agree that the entity, facility or person previously approved by the Board to so serve pursuant to the May 2012 Step I Consent Agreement is hereby approved to continue as Dr. Popovich's designated alternate drug testing facility and collection site or as his supervising physician under this Consent Agreement.
12. 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. Popovich's quarterly declaration. It is Dr. Popovich's responsibility to ensure that reports are timely submitted.
13. The Board retains the right to require, and Dr. Popovich 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. Popovich, or for any other purpose, at Dr. Popovich's expense upon the Board's request and without prior notice. Dr. Popovich'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.

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#### **Monitoring Physician**

14. Before engaging in any medical practice, Dr. Popovich shall submit to the Board in writing 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. Popovich and who is engaged in the same or similar practice specialty.

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

Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Popovich and his medical practice, and on the review of Dr.

Popovich's patient charts. Dr. Popovich 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. Popovich's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Popovich must immediately so notify the Board in writing. In addition, Dr. Popovich 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. Popovich 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.

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

#### **Rehabilitation Program**

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

Dr. Popovich 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. Popovich's quarterly declarations.

#### **Aftercare**

16. Dr. Popovich shall contact an appropriate impaired physicians committee, approved by the Board, to arrange for assistance in recovery or aftercare.
17. Dr. Popovich shall maintain continued compliance with the terms of the aftercare contract entered into with a Board-approved 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.

#### **Psychiatric Treatment**

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18. Dr. Popovich and the Board agree that the person previously approved by the Board to serve as Dr. Popovich's treating psychiatrist pursuant to the May 2012 Step I Consent Agreement is hereby approved to continue as Dr. Popovich's designated treating psychiatrist under this Consent Agreement, unless within thirty days of the effective date of this Consent Agreement, Dr. Popovich shall submit to the Board for its prior approval the name and qualifications of an alternative psychiatrist of his choice. Dr. Popovich shall undergo and continue psychiatric treatment at least monthly, or as otherwise directed by the Board.

Dr. Popovich shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered for his psychiatric disorder. Dr. Popovich shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the Board on a quarterly basis, or as otherwise directed by the Board. The psychiatric reports shall contain information describing Dr. Popovich's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Popovich's compliance with his treatment plan; Dr. Popovich's mental status; Dr. Popovich's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Popovich shall ensure that his treating psychiatrist immediately notifies the Board of his failure to comply with his psychiatric treatment plan and/or any determination that Dr. Popovich is unable to practice due to his psychiatric disorder. It is Dr. Popovich's responsibility to ensure that quarterly reports are received in the Board's offices no later than the due date for Dr. Popovich's quarterly declaration.

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

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

#### **Releases**

19. Dr. Popovich 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. Popovich's chemical

dependency, mental health 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. Popovich further agrees to provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.

**Required Reporting by Licensee**

20. Within thirty days of the effective date of this Consent Agreement, Dr. Popovich 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. Popovich 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. Popovich 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. Popovich shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, Dr. Popovich 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.
21. Within thirty days of the effective date of this Consent Agreement, Dr. Popovich 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. Popovich further agrees to provide a copy of this Consent Agreement at time of application to

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the proper licensing authority of any state in which he applies for any professional license or for reinstatement of any professional license. Further, Dr. Popovich 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.

22. Dr. Popovich shall promptly provide a copy of this Consent Agreement to all persons and entities that provide Dr. Popovich chemical dependency and/or psychiatric treatment or monitoring. Further, Dr. Popovich 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.
23. Dr. Popovich shall notify the Board in writing of any change of principal practice address or residence address within thirty days of such change.

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#### FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Popovich 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. Popovich has violated any term, condition or limitation of this Consent Agreement, Dr. Popovich agrees that the violation, as alleged, also constitutes clear and

convincing evidence that his continued practice presents a danger of immediate and serious harm to the public for purposes of initiating a summary suspension pursuant to Section 4731.22(G), Ohio Revised Code.

**DURATION/MODIFICATION OF TERMS**

Dr. Popovich shall not request termination of this Consent Agreement for a minimum of five years. In addition, Dr. Popovich shall not request modification to the probationary terms, limitations, and conditions contained herein for at least one year, except that Dr. Popovich may make such request with the mutual approval and joint recommendation of the Secretary and Supervising Member. Otherwise, the above-described terms, limitations and conditions 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. Popovich, 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. Popovich and the Board agree that all other terms, limitations, and conditions contained in this Consent Agreement shall be unaffected.

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**ACKNOWLEDGMENTS/LIABILITY RELEASE**

Dr. Popovich 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. Popovich hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

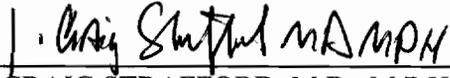
This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Dr. Popovich acknowledges that his social security number will be used if this 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.

  
\_\_\_\_\_  
WILLIAM FRANCIS POPOVICH, M.D.

5/31/13  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
J. CRAIG STRAFFORD, M.D., M.P.H.  
Secretary

12 June, 2013  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
MARK A. BECHTEL, M.D.  
Supervising Member

12 June 2013  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
ANGELA M. McNAIR  
Enforcement Attorney

June 5, 2013  
\_\_\_\_\_  
DATE

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**SUPERSEDING STEP I  
CONSENT AGREEMENT  
BETWEEN  
WILLIAM POPOVICH,  
CASE NUMBER 12-CRF-014  
AND  
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Popovich 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;" Section 4731.22(B)(15), Ohio Revised Code, for "[v]iolation of the conditions of limitation placed by the board upon a certificate to practice;" and/or Section 4731.22(B)(19), Ohio Revised Code, for an "[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills."
- B. On or about February 8, 2012, the Board issued to Dr. Popovich a Notice of Opportunity for Hearing ("February 2012 Notice"), a copy of which is attached hereto and fully incorporated herein.
- C. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26) and 4731.22(B)(15), Ohio Revised Code, as set forth in the February 2012 Notice, as well as the violation of Section 4731.22(B)(19), Ohio Revised Code, as set forth in paragraph F, below. The Board expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement.

- D. Dr. Popovich's license to practice medicine and surgery in the State of Ohio, License number 35.89778, is currently indefinitely suspended, but not less than 180 days, and subject to certain terms, limitations, and conditions, as established in the Step I Consent Agreement Between William Popovich, M.D., and the State Medical Board of Ohio, effective on or about August 10, 2011 [August 2011 Step I Consent Agreement].
- E. Dr. Popovich states that he is not licensed to practice in any other state or jurisdiction.
- F. Dr. Popovich admits to all of the factual and legal allegations as set forth in the February 2012 Notice. Dr. Popovich specifically acknowledges that due to his second relapse, which occurred less than one year from his date of discharge from completion of treatment for his first relapse, he is again required to successfully complete inpatient treatment, to include at least twenty-eight days of residential treatment for chemical dependence at a Board-approved treatment facility, due to his failure to maintain sobriety for at least one year post-discharge. Further, Dr. Popovich admits that he was recently diagnosed with Chronic Major Depression in addition to his dependence on alcohol and opiates. Dr. Popovich states, and the Board acknowledges receipt of information to support, that he is currently receiving monthly psychiatric treatment for his condition, including medication management. Dr. Popovich further admits that he has not been actively engaged in the practice of medicine or surgery since on or about July 28, 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. Popovich knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

#### **SUSPENSION OF CERTIFICATE**

1. The aforementioned August 2011 Step I Consent Agreement shall be terminated and superseded upon the instant Consent Agreement becoming effective. Furthermore, the certificate of Dr. Popovich to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time, but not less than one year from the effective date of this Consent Agreement.

#### **Obey all Laws**

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

### Sobriety

3. Dr. Popovich 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. Popovich's history of chemical dependency or psychiatric condition. Further, in the event that Dr. Popovich is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Popovich shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. Popovich 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. Popovich 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. Popovich shall abstain completely from the use of alcohol.

### Absences from Ohio

5. Dr. Popovich 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. Popovich 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. Popovich may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Popovich 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. Popovich 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. Popovich's chemical dependency, psychiatric condition, or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the

effective date of this Consent Agreement. 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. Popovich 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. Popovich 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 August 2011 Step I Consent Agreement with the Board, 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. Popovich 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 August 2011 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.

Drug & Alcohol Screens; Drug Testing Facility and Collection Site

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

Dr. Popovich 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. Popovich 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. Popovich shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by Dr. Popovich 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. Popovich 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. Popovich shall promptly provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Popovich and the Board-approved drug testing facility and/or collection site. Dr. Popovich'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. Popovich 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. Popovich 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. Popovich 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. Popovich must immediately notify the Board in writing, and make arrangements acceptable to the

Board, pursuant to Paragraph 10 below, as soon as practicable. Dr. Popovich 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. Popovich 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. Popovich and the Board agree that it is the intent of this Consent Agreement that Dr. Popovich 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. Popovich, 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. Popovich:
  - a. Within thirty days of the date upon which Dr. Popovich 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. Popovich, 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. Popovich 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. Popovich's residence or employment location, or to a physician who practices in the same locale as Dr. Popovich. Dr. Popovich 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. Popovich 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. Popovich 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. Popovich must immediately notify the Board in writing. Dr. Popovich 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. Popovich 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. Popovich
  - d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Popovich'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. Popovich's quarterly declaration. It is Dr. Popovich's responsibility to ensure that reports are timely submitted.
  12. The Board retains the right to require, and Dr. Popovich 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. Popovich, or for any other purpose, at Dr. Popovich's expense upon the Board's request and without prior notice. Dr. Popovich'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. Dr. Popovich shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.

Dr. Popovich 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. Popovich's quarterly declarations.

14. Immediately upon completion of any required treatment for chemical dependency, Dr. Popovich 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.

#### Psychiatric Treatment

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

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

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

## CONDITIONS FOR REINSTATEMENT

16. The Board shall not consider reinstatement or restoration of Dr. Popovich's certificate to practice medicine and surgery until all of the following conditions are met:
  - a. Dr. Popovich shall submit an application for reinstatement or restoration, as appropriate, accompanied by appropriate fees, if any.
  - b. Dr. Popovich 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. Popovich 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. Three written reports indicating that Dr. Popovich's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care.

Two reports shall be made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Popovich. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Popovich 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. Popovich, and any conditions, restrictions,

or limitations that should be imposed on Dr. Popovich's practice. The reports shall also describe the basis for the evaluator's determinations.

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

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement. 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. Popovich, including but not limited to issuance of a Notice of Opportunity for Hearing, Dr. Popovich 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. Popovich 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 or, if the Board and Dr. Popovich are unable to agree on the terms of a written Consent Agreement, then Dr. Popovich 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. Popovich that said hearing has been scheduled, advising Dr. Popovich 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. Popovich'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. Popovich 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. Popovich has maintained sobriety.

17. In the event that Dr. Popovich 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. Popovich's fitness to resume practice.

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

18. Within thirty days of the effective date of this Consent Agreement, Dr. Popovich 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. Popovich 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. Popovich 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. Popovich shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, Dr. Popovich 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. Within thirty days of the effective date of this Consent Agreement, Dr. Popovich 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. Popovich 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. Popovich 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. Popovich shall promptly provide a copy of this Consent Agreement to all persons and entities that provide Dr. Popovich chemical dependency treatment or monitoring. Further, Dr. Popovich 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.
21. Dr. Popovich 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. Popovich, 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. Popovich 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. Popovich 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. Popovich 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.

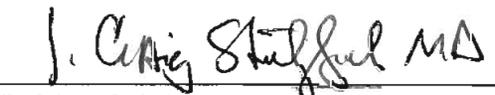
Dr. Popovich hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

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. Popovich 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.

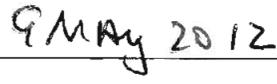
**EFFECTIVE DATE**

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.

  
\_\_\_\_\_  
WILLIAM POPOVICH, M.D.

  
\_\_\_\_\_  
J. CRAIG STRAFFORD, M.D., M.P.H.  
Secretary

  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
DATE



ERIC J. PLINKE  
Attorney for Dr. Popovich

May 7, 2012  
DATE



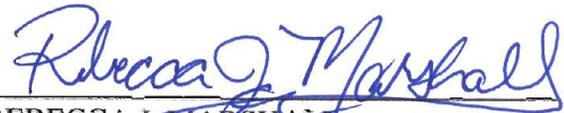
LANCE A. TALMAGE, M.D.  
Acting Supervising Member

5-9-12  
DATE



MELINDA R. SNYDER  
Assistant Attorney General

5-8-12  
DATE



REBECCA J. MARSHALL  
Chief Enforcement Attorney

May 8, 2012  
DATE



# 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

February 8, 2012

Case number: 12-CRF- 014

William Popovich, M.D.  
3555 Hunting Run Rd.  
Medina, OH 44256

Dear Doctor Popovich:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about August 10, 2011, you entered into a Step I Consent Agreement Between William Popovich, M.D., and the State Medical Board of Ohio, in lieu of formal proceedings based upon your violation of Sections 4731.22(B)(26) and (10), Ohio Revised Code [August 2011 Step I Consent Agreement].

Under the terms of the August 2011 Step I Consent Agreement, your certificate to practice medicine and surgery was suspended for an indefinite period of time, but not less than 180 days from the effective date of the agreement. You have been subject to all terms, conditions and limitations contained in the August 2011 Step I Consent Agreement, a copy of which is attached hereto and incorporated herein.

- (2) Paragraph 3 of the August 2011 Step I Consent Agreement provides as follows:

[You] shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed or administered to [you] by another so authorized by law who has full knowledge of [your] history of chemical dependency. Further, in the event that [you are] so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, [you] shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug [you] received; the medical purpose for which [you] received said drug; the date such drug was initially received; and the

*Mailed 2-9-12*

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 [you], [you] 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.

Despite this provision in the August 2011 Step I Consent Agreement:

- (a) Urine screens collected from you on or about October 25, 2011, and November 1, 2011, tested positive for tramadol, and were subsequently GC/MS confirmed for the same.
  
- (3) Paragraph 9 of the August 2011 Step I Consent Agreement requires that you provide random urine specimens for screening for drugs and alcohol. Further, paragraph 9 requires, in pertinent part, that:

[You] shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. [You] 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 [your] drug(s) of choice.

\* \* \*

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. . . .

\* \* \*

[You] shall submit, at [your] expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by [you] shall be negative, except for those substances prescribed, administered, or dispensed to [you] 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 [you] are selected or in such manner as the Board may request, shall constitute a violation of this Consent Agreement.

\* \* \*

[You] 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. . . .

- (a) Despite the requirements of the August 2011 Step I Consent Agreement, you failed to call in at all on or about September 24, 2011; September 25, 2011; October 2, 2011; October 9, 2011; October 16, 2011; and October 23, 2011.
- (b) Further, despite the requirements of the August 2011 Step I Consent Agreement, you called in and were notified that you were required to submit a urine specimen, yet you failed to submit a urine specimen as required, on or about September 27, 2011; October 4, 2011; October 20, 2011; and November 3, 2011.
- (c) Further, despite the requirements of the August 2011 Step I Consent Agreement, you failed to provide at least four urine specimens per month during the following months of 2011:
  - October
  - November
- (d) Further, despite the requirements of the August 2011 Step I Consent Agreement, you submitted unobserved specimens on or about September 30, 2011, and October 6, 2011.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) through (3) above, individually and/or collectively, constitute a “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice,” as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) and (2) above, individually and/or collectively, constitute “[i]mpairment 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,” as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

William Popovich, M.D.

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You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an individual’s certificate to practice, refuses to register an applicant, or refuses to reinstate an individual’s certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,



J. Craig Strafford, M.D., M.P.H.  
Secretary

JCS/AMM/flb  
Enclosures

CERTIFIED MAIL #91 7199 9991 7030 3381 2298  
RETURN RECEIPT REQUESTED

cc: Eric J. Plinke, Esq  
Dinsmore & Shohl, LLP  
191 W. Nationwide Blvd.  
Suite 300, Columbus, OH 43215

CERTIFIED MAIL #91 7199 9991 7030 3381 2229  
RETURN RECEIPT REQUESTED

**STEP I  
CONSENT AGREEMENT  
BETWEEN  
WILLIAM POPOVICH, M.D.,  
AND  
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Popovich 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/or Section 4731.22(B)(10), Ohio Revised Code, based upon "[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 (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. Popovich is licensed to practice medicine and surgery in the State of Ohio, License number 35.89778.
- D. Dr. Popovich states that he is not licensed to practice in any other state or jurisdiction.

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- E. Dr. Popovich's employment requires that he work seven days on, seven days off, and he admits that he would drink alcoholic beverages when he was not working a seven day shift. Dr. Popovich admits that his drinking eventually became excessive, and upon family intervention, he agreed to enter treatment. Dr. Popovich admits that after completing treatment for chemical dependency on June 6, 2011, he suffered a relapse and subsequently re-entered treatment for chemical dependence on or about July 28, 2011, at Glenbeigh Hospital [Glenbeigh], a Board-approved treatment provider in Rock Creek, Ohio. Following his recent admission to Glenbeigh, Dr. Popovich contacted the Board to self-report his relapse and admission into treatment.

Dr. Popovich acknowledges that due to his failure to maintain sobriety for at least one year following his aforementioned discharge from Glenbeigh, he is required to again successfully complete any required inpatient treatment, to include at least twenty-eight consecutive days of residential treatment for chemical dependence, at a Board-approved treatment provider, pursuant to Rule 4731-16-02(B)(3), Ohio Administrative Code.

Dr. Popovich admits that after he completed his initial treatment, he began experimenting with alcohol again and would drink wine during his weeks off of work. Dr. Popovich further admits that he ordered Tramadol online to self-treat his back pain, and states that he took about twenty pills. Additionally, Dr. Popovich admits that he recently wrote a prescription for Percocet in the name of a patient, for his own use. Such prescription led to an indictment recently being filed against him in Richland County, Ohio, for which Dr. Popovich asserts that he anticipates seeking intervention in lieu of conviction.

Dr. Popovich specifically attests that he never treated patients while under the influence of drugs or alcohol. Further, Dr. Popovich denies obtaining controlled substances for self-use by any method other than that which is described above. Dr. Popovich admits that his drug of choice is alcohol, and that he is currently impaired in his ability to practice medicine according to acceptable and prevailing standards of care due to the habitual and excessive use or abuse of drugs.

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

### **SUSPENSION OF CERTIFICATE**

1. The certificate of Dr. Popovich 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. Popovich shall obey all federal, state, and local laws.

Sobriety

3. Dr. Popovich 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. Popovich's history of chemical dependency. Further, in the event that Dr. Popovich is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Popovich shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. Popovich 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. Popovich 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. Popovich shall abstain completely from the use of alcohol.

Absences from Ohio

5. Dr. Popovich 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. Popovich 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. Popovich may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Popovich 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. Popovich shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by

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any and all parties that provide treatment or evaluation for Dr. Popovich'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. Popovich 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. Popovich 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. Popovich 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. Popovich shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Popovich 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. Popovich's drug(s) of choice.

Dr. Popovich 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. Popovich 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.

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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. Popovich shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by Dr. Popovich 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. Popovich 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. Popovich shall promptly provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Popovich and the Board-approved drug testing facility and/or collection site. Dr. Popovich'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. Popovich 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. Popovich 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. Popovich 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.

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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. Popovich must immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 10 below, as soon as practicable. Dr. Popovich 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. Popovich 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. Popovich and the Board agree that it is the intent of this Consent Agreement that Dr. Popovich 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. Popovich, 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. Popovich:
  - a. Within thirty days of the date upon which Dr. Popovich 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. Popovich, 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. Popovich 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. Popovich's residence or employment location, or to a physician who practices in the same locale as Dr. Popovich. Dr. Popovich 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. Popovich 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.

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- b. Dr. Popovich 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. Popovich must immediately notify the Board in writing. Dr. Popovich 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. Popovich 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. Popovich.
  - d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Popovich'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. Popovich's quarterly declaration. It is Dr. Popovich's responsibility to ensure that reports are timely submitted.
12. The Board retains the right to require, and Dr. Popovich 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. Popovich, or for any other purpose, at Dr. Popovich's expense upon the Board's request and without prior notice. Dr. Popovich'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.

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Rehabilitation Program

13. Within thirty days of the effective date of this Consent Agreement, Dr. Popovich 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. Popovich 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. Popovich's quarterly declarations.

14. Immediately upon completion of any required treatment for chemical dependency, Dr. Popovich 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. Popovich's certificate to practice medicine and surgery until all of the following conditions are met:
- a. Dr. Popovich shall submit an application for reinstatement or restoration, as appropriate, accompanied by appropriate fees, if any.
  - b. Dr. Popovich 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. Popovich 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.

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- iii. Evidence of continuing full compliance with this Consent Agreement.
- iv. Two written reports indicating that Dr. Popovich'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. Popovich. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Popovich 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. Popovich, and any conditions, restrictions, or limitations that should be imposed on Dr. Popovich'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. Popovich, including but not limited to issuance of a Notice of Opportunity for Hearing, Dr. Popovich 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. Popovich 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 or, if the Board and Dr. Popovich are unable to agree on the terms of a written Consent Agreement, then Dr. Popovich 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. Popovich that said hearing has been scheduled, advising Dr. Popovich 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. Popovich'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. Popovich 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. Popovich has maintained sobriety.

16. In the event that Dr. Popovich 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. Popovich's fitness to resume practice.

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

17. Within thirty days of the effective date of this Consent Agreement, Dr. Popovich 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. Popovich 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. Popovich 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. Popovich shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, Dr. Popovich 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.

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18. Within thirty days of the effective date of this Consent Agreement, Dr. Popovich 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. Popovich 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. Popovich 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. Popovich shall promptly provide a copy of this Consent Agreement to all persons and entities that provide Dr. Popovich chemical dependency treatment or monitoring. Further, Dr. Popovich 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. Popovich 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. Popovich, including but not limited to issuance of a Notice of Opportunity for Hearing, this Consent Agreement shall continue in full force and effect until

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

#### **EFFECTIVE DATE**

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

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\_\_\_\_\_  
WILLIAM POPOVICH, M.D.

8 August 2011  
DATE

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

8-10-11  
DATE

  
\_\_\_\_\_  
JACK C. AMATO, M.D.  
Supervising Member

8/10/11  
DATE

  
\_\_\_\_\_  
ANGELA M. McNAIR  
Enforcement Attorney

8/9/11  
DATE

**STEP I  
CONSENT AGREEMENT  
BETWEEN  
WILLIAM POPOVICH, M.D.,  
AND  
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Popovich 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/or Section 4731.22(B)(10), Ohio Revised Code, based upon "[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 (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. Popovich is licensed to practice medicine and surgery in the State of Ohio, License number 35.89778.
- D. Dr. Popovich states that he is not licensed to practice in any other state or jurisdiction.

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- E. Dr. Popovich's employment requires that he work seven days on, seven days off, and he admits that he would drink alcoholic beverages when he was not working a seven day shift. Dr. Popovich admits that his drinking eventually became excessive, and upon family intervention, he agreed to enter treatment. Dr. Popovich admits that after completing treatment for chemical dependency on June 6, 2011, he suffered a relapse and subsequently re-entered treatment for chemical dependence on or about July 28, 2011, at Glenbeigh Hospital [Glenbeigh], a Board-approved treatment provider in Rock Creek, Ohio. Following his recent admission to Glenbeigh, Dr. Popovich contacted the Board to self-report his relapse and admission into treatment.

Dr. Popovich acknowledges that due to his failure to maintain sobriety for at least one year following his aforementioned discharge from Glenbeigh, he is required to again successfully complete any required inpatient treatment, to include at least twenty-eight consecutive days of residential treatment for chemical dependence, at a Board-approved treatment provider, pursuant to Rule 4731-16-02(B)(3), Ohio Administrative Code.

Dr. Popovich admits that after he completed his initial treatment, he began experimenting with alcohol again and would drink wine during his weeks off of work. Dr. Popovich further admits that he ordered Tramadol online to self-treat his back pain, and states that he took about twenty pills. Additionally, Dr. Popovich admits that he recently wrote a prescription for Percocet in the name of a patient, for his own use. Such prescription led to an indictment recently being filed against him in Richland County, Ohio, for which Dr. Popovich asserts that he anticipates seeking intervention in lieu of conviction.

Dr. Popovich specifically attests that he never treated patients while under the influence of drugs or alcohol. Further, Dr. Popovich denies obtaining controlled substances for self-use by any method other than that which is described above. Dr. Popovich admits that his drug of choice is alcohol, and that he is currently impaired in his ability to practice medicine according to acceptable and prevailing standards of care due to the habitual and excessive use or abuse of drugs.

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

#### **SUSPENSION OF CERTIFICATE**

1. The certificate of Dr. Popovich 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. Popovich shall obey all federal, state, and local laws.

Sobriety

3. Dr. Popovich 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. Popovich's history of chemical dependency. Further, in the event that Dr. Popovich is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Popovich shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. Popovich 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. Popovich 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. Popovich shall abstain completely from the use of alcohol.

Absences from Ohio

5. Dr. Popovich 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. Popovich 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. Popovich may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Popovich 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. Popovich 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. Popovich'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. Popovich 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. Popovich 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. Popovich 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. Popovich shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Popovich 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. Popovich's drug(s) of choice.

Dr. Popovich 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. Popovich 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.

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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. Popovich shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by Dr. Popovich 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. Popovich 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. Popovich shall promptly provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Popovich and the Board-approved drug testing facility and/or collection site. Dr. Popovich'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. Popovich 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. Popovich 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. Popovich 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.

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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. Popovich must immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 10 below, as soon as practicable. Dr. Popovich 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. Popovich 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. Popovich and the Board agree that it is the intent of this Consent Agreement that Dr. Popovich 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. Popovich, 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. Popovich:
  - a. Within thirty days of the date upon which Dr. Popovich 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. Popovich, 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. Popovich 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. Popovich's residence or employment location, or to a physician who practices in the same locale as Dr. Popovich. Dr. Popovich 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. Popovich 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.

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- b. Dr. Popovich 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. Popovich must immediately notify the Board in writing. Dr. Popovich 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. Popovich 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. Popovich.
  - d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Popovich'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. Popovich's quarterly declaration. It is Dr. Popovich's responsibility to ensure that reports are timely submitted.
12. The Board retains the right to require, and Dr. Popovich 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. Popovich, or for any other purpose, at Dr. Popovich's expense upon the Board's request and without prior notice. Dr. Popovich'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. Popovich 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. Popovich 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. Popovich's quarterly declarations.

14. Immediately upon completion of any required treatment for chemical dependency, Dr. Popovich 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. Popovich's certificate to practice medicine and surgery until all of the following conditions are met:
- a. Dr. Popovich shall submit an application for reinstatement or restoration, as appropriate, accompanied by appropriate fees, if any.
  - b. Dr. Popovich 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. Popovich 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.

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- iii. Evidence of continuing full compliance with this Consent Agreement.
- iv. Two written reports indicating that Dr. Popovich'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. Popovich. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Popovich 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. Popovich, and any conditions, restrictions, or limitations that should be imposed on Dr. Popovich'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. Popovich, including but not limited to issuance of a Notice of Opportunity for Hearing, Dr. Popovich 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. Popovich 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 or, if the Board and Dr. Popovich are unable to agree on the terms of a written Consent Agreement, then Dr. Popovich 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. Popovich that said hearing has been scheduled, advising Dr. Popovich 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

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matter by Board Order.

Further, upon reinstatement of Dr. Popovich'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. Popovich 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. Popovich has maintained sobriety.

16. In the event that Dr. Popovich 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. Popovich's fitness to resume practice.

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

17. Within thirty days of the effective date of this Consent Agreement, Dr. Popovich 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. Popovich 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. Popovich 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. Popovich shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, Dr. Popovich 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.

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18. Within thirty days of the effective date of this Consent Agreement, Dr. Popovich 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. Popovich 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. Popovich 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. Popovich shall promptly provide a copy of this Consent Agreement to all persons and entities that provide Dr. Popovich chemical dependency treatment or monitoring. Further, Dr. Popovich 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. Popovich 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. Popovich, including but not limited to issuance of a Notice of Opportunity for Hearing, this Consent Agreement shall continue in full force and effect until

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

#### **EFFECTIVE DATE**

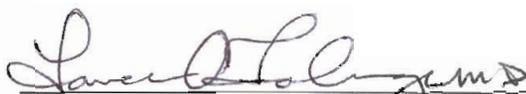
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

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WILLIAM POPOVICH, M.D.

8 August 2011  
DATE



LANCE A. TALMAGE, M.D.

Secretary

8-10-11  
DATE

  
JACK C. AMATO, M.D.  
Supervising Member

8/10/11  
DATE

  
ANGELA M. McNAIR  
Enforcement Attorney

8/9/11  
DATE

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