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

May 14, 2008

Robert M. Moore, M.T.
910 East Bayton Street
Alliance, Ohio 44601

RE: 08-CRF-027

Dear Mr. Moore:

Please find enclosed a certified copy of the Findings, Order and Journal Entry approved and confirmed by the State Medical Board meeting in regular session on May 14, 2008.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal must be taken to the Franklin County Court of Common Pleas.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of an original Notice of Appeal with the State Medical Board of Ohio and a copy with the Franklin County Court of Common Pleas. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

Very truly yours,

Lance A. Talmage, M.D.

Lance A. Talmage, M.D.
Secretary

LAT:baj
Enclosures

CERTIFIED MAIL RECEIPT NO. 91 7108 2133 3933 2407 0778
RETURN RECEIPT REQUESTED

Mailed 5-15-08

CERTIFICATION

I hereby certify that the attached copy of the Findings, Order and Journal Entry approved by the State Medical Board, meeting in regular session on May 14, 2008, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of Robert M. Moore, M.T., Case No. 08-CRF-027, as it appears in the Journal of the State Medical Board of Ohio.

This Certification is made by the authority of the State Medical Board of Ohio in its behalf.

Lance A. Talmage, M.D.
Secretary

(SEAL)

May 14, 2008
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF	*	
	*	CASE NO. 08-CRF-027
ROBERT M. MOORE, M.T.	*	

FINDINGS, ORDER AND JOURNAL ENTRY

By letter dated March 12, 2008, notice was given to Robert M. Moore, M.T., that the State Medical Board intended to consider disciplinary action regarding his license to practice massage therapy in the State of Ohio, and that he was entitled to a hearing if such hearing was requested within thirty (30) days of the mailing of said notice. In accordance with Section 119.07, Ohio Revised Code, said notice was sent via certified mail, return receipt requested, on March 13, 2008, to the address of record of Mr. Moore, that being 910 East Bayton, Alliance, Ohio 44601.

A signed certified mail receipt was returned to the Medical Board documenting proper service of the notice. However, no hearing request has been received from Mr. Moore and more than thirty (30) days have now elapsed since the mailing of that notice.

WHEREFORE, having reviewed the affidavit of Debra L. Jones, Continuing Medical Education and Renewal Officer, the affidavit of Barbara A. Jacobs, Public Services Administrator, and the notice of opportunity for hearing issued on March 12, 2008, all of which are attached hereto and incorporated herein, the Board hereby finds that there is reliable, probative and substantial evidence to support the allegations as set forth in the notice of opportunity for hearing issued on March 12, 2008.

Accordingly, it is hereby ORDERED that:

A. **SUSPENSION OF CERTIFICATE**: The certificate of Robert M. Moore, M.T., to practice massage therapy in the state of Ohio shall be SUSPENDED for an indefinite period of time.

B. **CONDITIONS FOR REINSTATEMENT**: Mr. Moore shall not apply in the future for reinstatement or restoration of his certificate to practice massage therapy in the state of Ohio, or for any other certificate issued by the Board, until all of the following conditions are met.

   1. **Application**: Mr. Moore shall submit an application, accompanied by appropriate fees.

2. **Demonstration of Ability to Practice**: Mr. Moore shall demonstrate to the satisfaction of the Board that he can 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:

   a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Mr. Moore has successfully completed any required inpatient treatment, including at least twenty-eight days of inpatient or residential treatment for chemical dependence, as set forth in Rules 4731-16-02(B)(4) and 4731-16-08(A)(13) of the Administrative Code, completed consecutively.

   b. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10 of the Administrative Code.

   c. Two written reports indicating that Mr. Moore'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 Mr. Moore. Prior to the assessments, Mr. Moore shall provide the evaluators with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Order. The reports from the evaluators shall include any recommendations for treatment, monitoring, or supervision of Mr. Moore, and any conditions, restrictions, or limitations that should be imposed on Mr. Moore'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 or restoration.

C. **PROBATIONARY CONDITIONS TO BE PLACED UPON ANY FUTURE CERTIFICATE GRANTED BY THE BOARD**: In the event that the Board should grant a future application by Mr. Moore for reinstatement or restoration of his certificate to practice massage therapy in the State of Ohio, or for any other certificate issued by the Board, that certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

1. **Obey the Law**: Mr. Moore shall obey all federal, state, and local laws, and all rules governing the practice of massage therapy or other licensed practice in Ohio.

2. **Personal Appearances**: Mr. Moore shall appear in person for an interview before the full Board or its designated representative during the third month following the month during which the Board approved Mr. Moore's application for reinstatement or restoration of his certificate to practice massage therapy or other certificate. 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.

3. **Quarterly Declarations**: Mr. Moore 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 Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month during which the Board approved Mr. Moore's application for reinstatement or restoration of his certificate to practice massage therapy or other certificate. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

4. **Abstention from Drugs**: Mr. Moore shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Mr. Moore's history of impairment.

5. **Abstention from Alcohol**: Mr. Moore shall abstain completely from the use of alcohol.

6. **Comply with the Terms of Treatment and Aftercare Contract**: Mr. Moore shall maintain continued compliance with the terms of the treatment and aftercare contracts entered into with his treatment provider, provided that, where terms of the treatment and aftercare contract conflict with terms of this Order, the terms of this Order shall control.

7. **Drug & Alcohol Screens**: Mr. Moore shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Mr. Moore 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 Mr. Moore's drug(s) of choice.

Mr. Moore 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. Mr. Moore is specifically warned 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 Order.

All such urine screenings for drugs and alcohol shall be conducted through a Board-approved drug testing facility and collection site, except as provided below, and the screening process shall require a daily call-in procedure.

Mr. Moore shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by Mr. Moore 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 Order. Refusal to submit such specimen, or failure to submit such specimen on the day Mr. Moore is selected or in such manner as the Board may request, shall constitute a violation of this Order.

Further, within thirty days of the reinstatement or restoration of his license to practice massage therapy, Mr. Moore 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 Order. Further, within thirty days of making such arrangements, Mr. Moore shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Mr. Moore and the Board-approved drug testing facility and/or collection site. Mr. Moore'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 Order.

Mr. Moore 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, Mr. Moore 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.

Mr. Moore 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 Order, 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 Order, Mr. Moore must immediately notify the Board in writing, and make arrangements acceptable to the Board, as described below, as soon as practicable. Mr. Moore 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.

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.

Mr. Moore 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 Mr. Moore, 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 Mr. Moore:

a. Within thirty days of the date upon which Mr. Moore is notified of the Board's determination that utilizing the Board-approved drug testing facility and/or collection site constitutes an extraordinary hardship upon Mr. Moore, 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 Mr. Moore 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 Mr. Moore's residence or employment location, or to a physician who practices in the same locale as Mr. Moore. Mr. Moore 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, Mr. Moore shall assure that that the alternate drug testing facility and collection site, or the supervising physician, maintains appropriate control over the specimen and shall immediately inform the Board of any positive screening results.

b. Mr. Moore 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 Order, 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, Mr. Moore must immediately notify the Board in writing. Mr. Moore 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, Mr. Moore 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 Mr. Moore.

d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Mr. Moore'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.

All screening reports required under this Order 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 Mr. Moore's quarterly declaration. It is Mr. Moore's responsibility to ensure that reports are timely submitted.

Mr. Moore shall 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 Mr. Moore, or for any other purpose, at Mr. Moore's expense upon the Board's request and without prior notice. Mr. Moore'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.

8. **Provision of Blood or Urine for Screening without Prior Notice**: Mr. Moore shall submit blood and/or urine specimens for analysis without prior notice at such times as the Board may request, at Mr. Moore's expense.

9. **Rehabilitation Program**: Mr. Moore shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A. or C.A., no less than three times per week, unless otherwise determined by the Board. Substitution of any other specific program must receive prior Board approval. Mr. Moore shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Mr. Moore's quarterly declarations.

10. **Releases**: Mr. Moore shall provide continuing 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 Mr. Moore's impairment and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after Board approval of Mr. Moore's application for reinstatement or restoration of his certificate to practice massage therapy or other certificate. 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.

    Mr. Moore shall also provide the Board written consent permitting any treatment provider from whom Mr. Moore 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 Order.

11. **Absence from Ohio**: Mr. Moore 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.

12. **Tolling of Probationary Period while Out of Compliance**: In the event Mr. Moore is found by the Secretary of the Board to have failed to comply with any provision of this Order, 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 Order.

D. **Required Reporting to Employers and Hospitals**: Within thirty days of the effective date of this Order, Mr. Moore shall provide a copy of this Order 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, Mr. Moore shall promptly provide a copy of this Order 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. Further, Mr. Moore 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 Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Order to the person or entity to whom a copy of the Order was emailed.

E. **Required Reporting to Other State Licensing Authorities:** Within thirty days of the effective date of this Order, Mr. Moore shall provide a copy of this Order 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. Mr. Moore shall further provide a copy of this Order 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, Mr. Moore 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 Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Order to the person or entity to whom a copy of the Order was emailed.

F. **Change of Address:** Mr. Moore shall notify the Board in writing of any change of principal practice address or residence address within thirty days of such change.

G. **Termination Of Probation**: Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Moore's certificate will be fully restored.

This Order shall become effective IMMEDIATELY.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 14th day of May 2008, and the original thereof shall be kept with said Journal.

Lance A. Talmage, M.D.
Secretary

(SEAL)

May 14, 2008
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

March 12, 2008

Case number: 08-CRF-027

Robert M. Moore, M.T.
910 East Bayton Street
Alliance, Ohio 44601

Dear Mr. Moore:

Due to your failure to submit to an examination on February 18, 2008, as ordered by the State Medical Board of Ohio [Board] and your failure to notify the Board of any circumstances beyond your control preventing you from submitting to said examination, pursuant to Section 4731.22(B)(26), Ohio Revised Code, a legal presumption has been established that you have admitted the factual and legal allegations demonstrating an impairment of your 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 alleged against you in the Board's letter dated January 22, 2008, and sent to you by certified mail [January 22, 2008 certified letter], so ordering you to submit to such examination.

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the Board intends, for one or more of the following reasons, to determine whether your failure to submit to the aforementioned examination was due to circumstances beyond your control, which would rebut the legal presumption of impairment and merit rescheduling the examination as directed by the Board, or conversely, whether your failure to submit to the aforementioned examination was due to circumstances within your control, which would render the legal presumption of impairment conclusive and result in the Board further determining whether to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice massage therapy, or to reprimand you or place you on probation based upon your legally admitted impairment:

(1) Previously, you were scheduled for an examination on July 30, 2007. You did not appear for that examination. Following notice from the Board, and on your request, a hearing was held to determine whether your failure to appear was due to circumstances beyond your control. At its meeting on December 12, 2007, the Board ordered that your examination be rescheduled. The Board's decision was incorporated into an Entry of Order dated December 12, 2007 and issued to you on or about that same date.

Mailed 3.13.08

(2) Pursuant to the Board's December 12, 2007 Entry of Order, your examination was rescheduled. You were notified of the new date for the examination in a letter dated January 22, 2008. In that letter, the Board also notified you of its determination that it had reason to believe that you are in violation of Section 4731.22(B)(26), Ohio Revised Code, and ordered you to undergo a 72-hour inpatient examination to determine if you are in violation of Section 4731.22(B)(26), Ohio Revised Code. The Board's determination was based upon one or more of the reasons outlined in such letter, a copy of which is attached hereto and incorporated herein by reference.

(3) The January 22, 2008 certified letter from the Board further notified you that, pursuant to Section 4731.22(B)(26), Ohio Revised Code, you were ordered to submit to a 72-hour inpatient examination. The examination was scheduled to take place at Glenbeigh Hospital, a Board-approved treatment provider, on Monday, February 18, 2008, at 10:00 a.m.

The January 22, 2008 certified letter from the Board further notified you that failure of an individual to submit to an examination as directed constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control. Finally, the letter notified you that if you failed to submit to the examination, and such failure was not due to circumstances beyond your control, the Board would be authorized to enter a default and final order without the taking of testimony or presentation of evidence.

(4) You were duly notified of the examination order and its scheduled date. The certified letter return receipt is signed and dated January 24, 2008.

(5) Prior to the examination, on Friday, February 15, 2008, in response to a telephone call you made to Assistant Attorney General Kyle Wilcox, you were contacted by the Board's Chief Enforcement Attorney. In your telephone conversation with her, you stated that you could not attend the examination because you had a flight scheduled to leave on the morning of Thursday, February 21, 2008, and you believed you would not be released from Glenbeigh Hospital in time to make your flight. You further stated that you would be attending a seminar in Florida, which you claimed you paid $7,000.00 to attend. You also stated that you had registered for the seminar in or around November, 2007, although you did not notify the Board earlier, even though you admitted you received the January 22, 2008 certified letter in or around January, 2008.

(6) Following her telephone conversation with you, the Board's Chief Enforcement Attorney contacted the Board's Supervising Member, conveying your request to reschedule the examination and further advising him of the information she had received from you. Noting that you had requested that the previous examination be

rescheduled, suggesting you could not afford the cost, and now claiming you were attending a seminar in Florida at a cost of $7,000, the Board's Supervising Member denied your request to reschedule the examination.

(7) By letter dated February 20, 2008, the Board was notified that you failed to appear for the examination that the Board scheduled for you. Although you asserted that you were unable to appear for the examination that the Board scheduled for you due to your plans to attend the above-described seminar, at no time did you establish that you actually registered and paid for the seminar in or around November, 2007, as you alleged, or that you even attended the seminar. Likewise, you offered no explanation of any attempts you made to change or modify your flight plan so that you could attend the examination. You provided no documented information that your failure to appear was due to any circumstances beyond your control. Accordingly, pursuant to Section 4731.22(B)(26), Ohio Revised Code, and in consideration of the affidavits of Enforcement Attorney Cheryl D. Pokorny, Chief Enforcement Attorney Rebecca J. Marshall, and CME & Renewal Officer Debra L. Jones, copies of which are attached hereto and fully incorporated herein, the Board hereby FINDS that you have admitted the truth of the allegations demonstrating impairment as set forth in the January 22, 2008 certified letter from the Board. The Board FINDS that pursuant to Section 4731.22(B)(26), Ohio Revised Code, your failure to appear for the examination ordered by the Board as directed constitutes "[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.

Section 4731.22(B)(26), Ohio Revised Code, provides that any individual authorized to practice accepts the privilege of practicing in this state subject to supervision by the Board; that by filing an application for or holding a certificate to practice, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the Board in writing; and that the expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination ordered by the Board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) through (7) 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, and Chapter 4731., Ohio Revised Code, you are hereby advised that you are entitled to a hearing concerning whether your failure to submit to the examination as directed was due to circumstances beyond your control. 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.

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 massage therapy 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,

Lance A. Talmage, M.D.
Secretary

LAT/CDP/flb

Enclosures

CERTIFIED MAIL #91 7108 2133 3934 3685 0190
RETURN RECEIPT REQUESTED

AFFIDAVIT

The State of Ohio
Franklin County, SS

I, Cheryl D. Pokorny, being duly cautioned and sworn, do hereby depose and state that the following is true based upon my first-hand knowledge:

1) I am employed by the State Medical Board of Ohio [Board].

2) I serve the Board in the position of Enforcement Attorney.

3) In the course of my regular duties, I am responsible for coordinating the investigation of complaints against applicants and licensees under the jurisdiction of the Board and assembling the evidence necessary to prove potential violations of the Medical Practices Act of Ohio, Chapters 4730., 4731., 4760., and 4762., Ohio Revised Code.

4) I coordinated the investigation of the complaints filed against Robert M. Moore, M.T. which resulted in the issuance of an order from the Board that Mr. Moore submit to an examination pursuant to Section 4731.22(B)(26), Ohio Revised Code, and ultimately in the issuance of an Entry of Order on December 12, 2007, directing that Mr. Moore's examination be rescheduled.

5) On January 22, 2008, a letter was sent via certified mail, return receipt requested, to Mr. Moore at the following address: 910 East Bayton Street, Alliance, Ohio 44601. A copy of said letter, by which Mr. Moore was ordered to submit to a seventy-two hour in-patient examination at Glenbeigh Hospital, 2863 St. Rt. 45, Rock Creek, Ohio, commencing on Monday, February 18, 2008, at 10:00 a.m., is attached hereto and fully incorporated herein.

6) On January 28, 2008, the Board received electronic notice of a certified mail return receipt showing that the certified letter to Mr. Moore had been delivered to the address set forth in paragraph 5. The electronic notice indicated that the letter was received by Robert Moore on January 24, 2008, at 11:49 a.m. A copy of said electronic certified mail return receipt is attached hereto and fully incorporated herein.

7) On Friday, February 15, 2008, I met with the Board's Chief Enforcement Attorney, Rebecca J. Marshall, at approximately 12:40 p.m. She advised me that she had had a telephone conversation that morning with Mr. Moore. Based on my conversation with Ms. Marshall, I understood that Mr. Moore might not appear for the examination scheduled for Monday, February 18, 2008, because of the following:

   a) Mr. Moore claimed that, in or around November, 2007, he had registered to attend a seminar in Florida scheduled for sometime in February, 2008.

b) The registration fee to attend the seminar was $7,000, which Mr. Moore charged to his credit card, even though he alleged that he could not afford to go to the examination originally scheduled for July 30, 2007.

c) Mr. Moore's flight for Florida was scheduled to leave at 7:00 a.m. on Thursday, February 21, 2008, the day he was to be released from Glenbeigh Hospital.

8) On Tuesday, February 19, 2008, I retrieved a voice mail message from a representative of Glenbeigh Hospital, left for me on Monday, February 18, 2008. The message advised that Mr. Moore did not appear for the examination scheduled to begin on Monday, February 18, 2008, at 10:00 a.m.

9) On Thursday, February 21 and Friday, February 22, 2008, I telephoned Mr. Moore at what I believed to be his home telephone number. There was no answer.

10) On Monday, February 25, 2008, I sent Mr. Moore a letter, asking him to provide copies of documentation establishing the amount he paid to attend the seminar, the date he paid the amount and that he attended the seminar. I asked him to send the documents within one week. A copy of the letter is attached hereto. To date, I have not received any documentation or any response from Mr. Moore.

11) In a letter dated February 20, 2008, received by the Board on or about February 25, 2008, I received written confirmation that Mr. Moore did not appear for his seventy-two hour in-patient examination at Glenbeigh Hospital, scheduled to begin on Monday, February 18, 2008, at 10:00 a.m. A copy of the letter is attached hereto.

Further, Affiant Sayeth Naught.

Cheryl D. Pokorny

Cheryl D. Pokorny, Enforcement Attorney

Sworn to and signed before me, Daniel S. Zinsmaster, Notary Public, this 10th day of March, 2008.

DANIEL S. ZINSMASTER, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

Notary Public

AFFIDAVIT

The State of Ohio
Franklin County, SS

I, Rebecca J. Marshall, being duly cautioned and sworn, do hereby depose and state that the following is true based upon my first-hand knowledge:

1) I am employed by the State Medical Board of Ohio [Board].

5) I serve the Board in the position of Chief Enforcement Attorney.

6) In the course of my regular duties, I am responsible for supervising the Board's Enforcement Attorneys and may, at times, assist in a matter in conjunction with or in the absence of the assigned Enforcement Attorney.

4) On Friday, February 15, 2008, I received a telephone call from Assistant Attorney General Kyle Wilcox, who advised that he had received a telephone call from Robert M. Moore. It was my understanding that Mr. Moore had contacted Glenbeigh Hospital in an attempt to reschedule his Board-ordered examination scheduled for Monday, February 18, 2008.

5) Cheryl D. Pokorny was the Enforcement Attorney assigned to the case, but she was conducting a deposition that morning. At approximately 10:45 a.m., I telephoned Mr. Moore and spoke with him. Mr. Moore advised that he had a flight to Florida scheduled to leave at 7:00 a.m. on Thursday, February 21, 2008. It was his belief that the flight conflicted with the examination he was to begin at Glenbeigh Hospital on Monday, February 18, 2008.

6) The telephone conversation included the following:

   a) Mr. Moore said he was traveling to Orlando, Florida for a seminar for work.

   b) I asked Mr. Moore where he worked, so that I could confirm with his employer that the seminar was for work. Mr. Moore stated that he had "no regular nine to five job" and that the seminar was a real estate seminar.

   c) I asked Mr. Moore if he had a real estate license; he said that he did not. I asked him if the course was related to obtaining a real estate license; he denied that it was. He explained

that the seminar was a program about how to make money in real estate.

d) Upon my further inquiry, Mr. Moore explained that he had registered for the course in or around November 2007, and that he had paid $7,000 to attend the course. When I asked how he had paid for the course, Mr. Moore explained that he had charged the cost to his credit card.

e) I questioned Mr. Moore about the timing of his request. Mr. Moore stated that he did not realize until that day that the examination would conflict with his trip. Mr. Moore admitted to me that he received the Board's letter ordering him to the examination in January 2008, and that he had known for approximately one month what his scheduling commitments were.

f) I explained to Mr. Moore that, if he did not attend the February 18 examination, that he likely would be issued another citation, and that it would be up to the Board to determine whether the situation constituted circumstances beyond his control and, if not, that he could lose his massage therapy license.

g) I explained to Mr. Moore that he should send a letter to the Board with documentation to corroborate his story, including a copy of the credit card statement that shows the date he paid for the seminar and the cost of the seminar, as well as a brochure or other documentation that provided specific information on the course.

h) I asked Mr. Moore if he intended to appear for the February 18 examination. He stated he would discuss it with his wife and then decide what to do.

7) After completing my telephone conversation with Mr. Moore, I telephoned Glenbeigh Hospital and spoke with Kathy Chambers in the Admissions Office. Ms. Chambers confirmed that Mr. Moore had called Glenbeigh and had been told that he could not reschedule the Board-ordered examination. She also confirmed that the examination was still scheduled for Monday, February 18, 2008.

8) At approximately 12:25 p.m., I spoke with Raymond Albert, the Board's Supervising Member, and told him about my conversation with Mr. Moore. Noting that Mr. Moore had originally failed to appear for the

first scheduled examination in July 2007 because he claimed that he could not afford to pay the cost of the examination, and was now claiming that he could not attend the rescheduled examination because he had paid $7,000 to attend the Florida real estate seminar, Mr. Albert directed me not to reschedule the examination.

Further, Affiant Sayeth Naught.

Rebecca J. Marshall

Rebecca ~~J. Marshall,~~
Chief Enforcement Attorney

Sworn to and signed before me, CHERYL D. POKORNY, ~~Notary Public~~ ATTORNEY AT LAW, this 10th day of March, 2008.

Cheryl D. Pokorny
~~Notary Public~~ ATTORNEY AT LAW

Cheryl D. Pokorny
State of Ohio
Attorney At Law
Lifetime Commission

AFFIDAVIT

The State of Ohio
Franklin County, SS

I, Debra L. Jones, being duly cautioned and sworn, do hereby depose and state that the following is true based upon my first-hand knowledge:

1) I am employed by the State Medical Board of Ohio [Board].

2) I serve the Board in the position of Continuing Medical Education and Renewal Officer.

3) In such position, I am the responsible custodian of all public licensee records maintained by the Board pertaining to individuals who have received certificates issued pursuant to Chapter 4731., Ohio Revised Code.

4) I have this day carefully examined the records of the Board pertaining to Robert M. Moore, M.T.

5) Based on such examination, I have found the last known address of record of Robert M. Moore, M.T. to be:

910 East Bayton Street
Alliance, Ohio 44601

6) Further, Affiant Sayeth Naught.

Debra L. Jones
Continuing Medical Education and
Renewal Officer

Sworn to and signed before me, CHERYL D. POKORNY, ~~Notary Public~~ ATTORNEY AT LAW, this 10TH day of March, 2008.

Cheryl D. Pokorny
~~Notary Public~~ ATTORNEY AT LAW

Cheryl D. Pokorny
State of Ohio
Attorney At Law
Lifetime Commission

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

January 22, 2008

Personal and Confidential

Robert M. Moore, M.T.
910 East Bayton Street
Alliance, Ohio 44601

Dear Mr. Moore:

The State Medical Board of Ohio [Board] has determined that it has reason to believe that you are in violation of Section 4731.22(B)(26), Ohio Revised Code, to wit: "[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."

This determination is based upon one or more of the following reasons:

(1) In a letter dated June 21, 2007, the Board ordered you to submit to an examination. A copy of the letter is attached hereto and incorporated herein by reference. The examination was scheduled to begin on Monday, July 30, 2007, at 10:00 a.m. at Glenbeigh Hospital, 2863 St. Rt. 45, Rock Creek, Ohio. You did not appear for that examination, although you received the June 21, 2007 letter on June 23, 2007. Prior to the examination, you sent a letter to the Board, requesting that the examination be rescheduled due to the stability of your finances.

(2) Based on your failure to appear for the examination, in a letter dated September 12, 2007, the Board gave you notice that your failure to submit to the examination constituted an admission of the allegations against you unless your failure to appear was for circumstances beyond your control. In that same letter, the Board afforded you an opportunity for a hearing to determine whether your failure to appear was for circumstances beyond your control.

(3) In response to the September 12, 2007 letter, you requested a hearing. The hearing was held on November 6, 2007; you did not appear for the hearing. In a Report and Recommendation issued on or about November 16, 2007, the Board's Hearing Examiner recommended that the examination be rescheduled.

(4) At its meeting on December 12, 2007, the Board adopted the Hearing Examiner's recommendation and ordered that your examination be rescheduled. The Board's decision was incorporated into an Entry of Order dated December 12, 2007 and issued to you on or about that same date.

By the authority vested in the State Medical Board of Ohio by Section 4731.22(B)(26), Ohio Revised Code, you are ordered to submit to an examination. This examination will take place at Glenbeigh Hospital, 440-563-3400. You are to report to the Admissions Office, on Monday, February 18, 2008, at 10:00 a.m. for a three-day in-patient evaluation.

Pursuant to Section 4731.22(B)(26), Ohio Revised Code, you are responsible for the expense of this evaluation. The total estimated cost of this evaluation is $1,800.00. You must present a certified check or money order in this amount made payable to Glenbeigh Hospital to the examiner prior to the beginning of the examination. Failure to present a certified check or money order in the amount specified to the examiner will result in the examination being cancelled, and will be deemed by the Board to be a failure to submit to the examination as directed due to circumstances within your control.

Please be advised that failure to submit to this examination as directed constitutes an admission of the allegations against you unless the failure is due to circumstances beyond your control, and that a default and final order may thereupon be entered without the taking of testimony or presentation of evidence.

Copies of the applicable statute sections are enclosed for your information.

Very truly yours,

Lance A. Talmage, M.D.

Lance A. Talmage, M.D.
Secretary

LAT/CDP/flb

Enclosures

CERTIFIED MAIL #91 7108 2133 3934 3487 4976
RETURN RECEIPT REQUESTED

State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

June 21, 2007

Personal and Confidential

Robert M. Moore, M.T.
910 East Bayton Street
Alliance, Ohio 44601

Dear Mr. Moore:

The State Medical Board of Ohio [Board] has determined that it has reason to believe that you are in violation of Section 4731.22(B)(26), Ohio Revised Code, to wit: "[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."

This determination is based upon one or more of the following reasons:

(1) On or about October 30, 2004, you were arrested in Alliance, Ohio, and charged with Operating a Vehicle Impaired, Willfully Flee or Elude Officers, and Use of Signal Before Changing Course, Turning or Stopping. You refused to perform a field sobriety test or to submit to testing to determine your blood alcohol level. On or about November 12, 2004, you were convicted in the Alliance Municipal Court of Operating a Vehicle Impaired. You were fined $675.00, with credit granted for $275.00 for your participation in the driver's intervention program. You were assessed costs, and sentenced to three days in jail, all days suspended on condition of your good behavior for one year. Further, your driver's license was suspended for 180 days, and you were granted limited driving privileges. The remaining charges of Willfully Flee or Elude Officers and Use of Signal Before Changing Course, Turning or Stopping were dismissed.

(2) During the arrest, an officer observed you spitting out two white pills bearing the imprint M357. The pills were subsequently identified as a generic formulation of a Schedule III controlled substance containing five milligrams of hydrocodone bitartrate and 500 milligrams of acetaminophen. You were subsequently charged with Possession of Dangerous Drugs, in violation of Section 4729.51, Ohio Revised Code; Tampering with Evidence, in violation of Section 2921.12, Ohio Revised Code; and Obstructing Official Business, in violation of Section 525.07 of the Codified Ordinances of Alliance. On or about November 12, 2004, you entered a plea of no contest to and were found guilty of an amended charge of Drug Paraphernalia. You were fined $250.00, assessed costs, and sentenced to 30 days in jail, all days suspended on

condition of your good behavior for one year. On November 12, 2004, you also entered a plea of no contest and were found guilty of Obstructing Official Business. You were fined $100.00 and assessed costs. The remaining charge of Tampering with Evidence was dismissed.

By the authority vested in the State Medical Board of Ohio by Section 4731.22(B)(26), Ohio Revised Code, you are ordered to submit to an examination. This examination will take place at **Glenbeigh Hospital, 2863 St. Rt. 45, Rock Creek, Ohio 44084, telephone number 440-563-3400**. You are to report to **Glenbeigh Admissions Office**, on **Monday, July 30, 2007**, at **10:00 a.m.**, for a 72-hour in-patient evaluation. Please contact Cathy Chambers at the above-listed telephone number one week prior to the evaluation for information regarding admission procedures and for driving directions.

Pursuant to Section 4731.22(B)(26), Ohio Revised Code, you are responsible for the expense of this evaluation. The total estimated cost of this evaluation is **$1,800.00**. You must present a certified check or money order in the amount of $1,800.00 made payable to **Glenbeigh Hospital** to the examiner prior to the beginning of the examination. Failure to present a certified check or money order in the amount specified to the examiner will result in the examination being cancelled, and will be deemed by the Board to be a failure to submit to the examination as directed due to circumstances within your control.

Please be advised that failure to submit to this examination as directed constitutes an admission of the allegations against you unless the failure is due to circumstances beyond your control, and that a default and final order may thereupon be entered without the taking of testimony or presentation of evidence.

Copies of the applicable statute sections are enclosed for your information.

Very truly yours,

Lance A. Talmage, M.D.

Lance A. Talmage, M.D.
Secretary

LAT/CDP/flb

Enclosures

CERTIFIED MAIL #91 7108 2133 3931 8318 3831
RETURN RECEIPT REQUESTED

UNITED STATES POSTAL SERVICE

Date Produced: 01/28/2008

STATE MEDICAL BOARD OF OHIO

The following is the delivery information for Certified item number 7108 2133 3934 3487 4976. Our records indicate that this item was delivered on 01/24/2008 at 11:49 a.m. in ALLIANCE, OH, 44601. The scanned image of the recipient information is provided below.

Delivery Section

Signature of Recipient: Robert Moore

Robert Moore

Address of Recipient: 910 E Dayton ST 44601

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representitive.

Sincerely,

United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Customer Reference Number: 4225901 18019711MOORE CDP

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 25, 2008

Robert M. Moore
910 East Bayton Street
Alliance, Ohio 44601

Re: Evaluation at Glenbeigh Hospital, scheduled for Monday, February 18, 2008

Dear Mr. Moore,

It is my understanding that you did not appear for your 72 hour examination that was scheduled to take place on Monday, February 18, 2008, at Glenbeigh Hospital. It also was my understanding that you did not appear because you had made arrangements to fly to Florida on Thursday, February 21, 2008, and you were concerned that you would not be released from Glenbeigh Hospital in time to make your scheduled flight. You shared this information with Rebecca Marshall, Chief Enforcement Attorney for the State Medical Board of Ohio, on Friday, February 15, 2008.

During your conversation with Ms. Marshall, you advised that you had registered for the course in November, 2007, and that the course cost $7,000. Ms. Marshall pointed out to you that you had failed to appear for your first scheduled examination due to claimed financial difficulties. Ms. Marshall asked how you paid the course fee; you indicated that you had charged the cost to your credit card. Ms. Marshall asked you to send a copy of the credit card charge slip or statement showing the date of the charge; to date, you have not sent that documentation. Please send it quickly.

Ms. Marshall did contact the Board's Supervising Member to discuss rescheduling your examination to another date. The Supervising Member declined the request. Nevertheless, you failed to appear for the examination as scheduled.

By now, you should have attended the seminar. Therefore, please forward to us copies of documents you received at that seminar, as well as any other documentation you may have that proves you attended the seminar. Please send this documentation at the same time you forward to us copies of the documentation that establishes the amount you paid to attend the seminar and the date you paid that amount.

I look forward to receiving these documents from you within the next week. In the meantime, if you have questions or concerns, please feel free to contact me. Thank you for your anticipated cooperation.

Very truly yours,

Cheryl D. Pokorny

Cheryl D. Pokorny
Enforcement Attorney
614-466-9251
cheryl.pokorny@med.state.oh.us

Glenbeigh
Cleveland Clinic affiliate

Accredited by
Joint Commission

P.O. Box 298 • ROCK CREEK, OHIO 44084-0298 • 440-563-3400 • FAX 440-563-9619

February 20, 2008

OHIO STATE MEDICAL BOARD

FEB 25 2008

RECEIVED

Cheryl Pokorny
Ohio Medical Board
30 South High Street
Columbus, Ohio 42215-6127

RE: Robert Moore

Dear Cheryl:

This is to advise you that, Robert Moore, who you referred for a three-day inpatient evaluation with Dr. Parrin on 02/18/08, at Glenbeigh Hospital of Rock Creek, was a no show for the evaluation, and there was not any contact with Glenbeigh..

If I can be of further assistance, please let me know.

Respectfully,

Kathy Chambers, MCDC

Kathy Chambers,
Admission Coordinator

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

December 12, 2007

Robert M. Moore, M.T.
910 East Bayton Street
Alliance, OH 44601

Dear Mr. Moore:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Patricia A. Davidson, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on December 12, 2007, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal must be taken to the Franklin County Court of Common Pleas.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of an original Notice of Appeal with the State Medical Board of Ohio and a copy of the Notice of Appeal with the Franklin County Court of Common Pleas. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3931 8317 8813
RETURN RECEIPT REQUESTED

Mailed 12-14-07

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Patricia A. Davidson, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on December 12, 2007, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Robert M. Moore, M.T., as it appears in the Journal of the State Medical Board of Ohio.

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

Lance A. Talmage, M.D.
Secretary

(SEAL)

December 12, 2007
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

ROBERT M. MOORE, M.T. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on December 12, 2007.

Upon the Report and Recommendation of Patricia A. Davidson, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

> The impairment examination of Robert M. Moore, M.T., pursuant to R.C. 4731.22(B)(26), which originally was scheduled to commence on July 30, 2007, shall be rescheduled at the Board's direction.

This Order shall become effective immediately upon the mailing of notification of approval by the Board.

Lance A. Talmage MD

Lance A. Talmage, M.D.
Secretary

(SEAL)

December 12, 2007
Date

STATE MEDICAL BOARD
OF OHIO
2007 NOV 16 A 10: 47

REPORT AND RECOMMENDATION
IN THE MATTER OF ROBERT M. MOORE, M.T.

The Matter of Robert M. Moore, M.T., was heard by Patricia A. Davidson, Hearing Examiner for the State Medical Board of Ohio, on November 6, 2007.

INTRODUCTION

Basis for Hearing

In a letter dated September 12, 2007, the State Medical Board of Ohio [Board] notified Robert M. Moore, M.T., that, due to his failure to submit to a Board-ordered examination and his failure to notify the Board of circumstances beyond his control preventing him from submitting to the examination, a legal presumption had arisen pursuant to Ohio Revised Code Section [R.C.] 4731.22(B)(26), which established the impairment of his "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."

The Board notified Mr. Moore that it intended to determine whether his failure to submit to the Board-ordered examination was (a) due to circumstances beyond his control, which would rebut the legal presumption of impairment and merit rescheduling the examination, or (b) due to circumstances within his control, which would "render the legal presumption of impairment conclusive and result in the Board further determining whether to limit, revoke, permanently revoke, suspend, refuse to register or reinstate [his] certificate to practice massage therapy, or to reprimand [him] or place [him] on probation based upon [his] legally admitted impairment."

In addition, the Board alleged that Mr. Moore had failed to cooperate in a Board investigation, in violation of R.C. 4731.22(B)(34).

The Board advised Mr. Moore of his right to "a hearing concerning whether [his] failure to submit to the examination as directed was due to circumstances beyond [his] control." The Board received his written request for hearing on October 15, 2007.

Appearances

Marc Dann, Attorney General, by Kyle C. Wilcox, Assistant Attorney General, for the State.

Robert M. Moore, M.T., the Respondent, *pro se*.

EVIDENCE EXAMINED

Exhibits

State's Exhibits 1A through 1F: Procedural exhibits.

State's Exhibit 2: Affidavit of Cheryl D. Pokorny, Board Enforcement Attorney, with attached documents: the Board's letter to Mr. Moore ordering him to an impairment evaluation, with

proof of receipt; a letter from Glenbeigh Hospital to the Board; and a letter from Mr. Moore to the Board postmarked July 25, 2007. [The Hearing Examiner numbered the pages of this exhibit post-hearing.]

State's Exhibit 3: Affidavit of Debra L. Jones regarding Mr. Moore's address of record.

Witness

Cheryl D. Pokorny, Esq.

SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony were reviewed and considered by the Hearing Examiner, although all the evidence may not be referenced below.

1. Robert M. Moore, M.T., is licensed to practice massage therapy in Ohio. On his recent application to renew his certificate, he disclosed to the Board that he had been convicted of operating a vehicle while impaired. The Board initiated an investigation, coordinated by an Enforcement Attorney for the Board. (St. Ex. 2 at 1; Tr. at 10-11)

2. The investigation revealed a conviction in Alliance, Ohio, for driving under the influence of alcohol or drugs, and other matters. (Tr. at 10; St. Ex. 2 at 3-4) As part of its ongoing investigation, the Board sent the following letter to Mr. Moore dated June 21, 2007, ordering him to an evaluation:

> The State Medical Board of Ohio [Board] has determined that it has reason to believe that you are in violation of Section 4731.22(B)(26), Ohio Revised Code, to wit: "[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."
>
> This determination is based upon one or more of the following reasons:
>
> (1) On or about October 30, 2004, you were arrested in Alliance, Ohio, and charged with Operating a Vehicle Impaired, Willfully Flee or Elude Officers, and Use of Signal Before Changing Course, Turning or Stopping. You refused to perform a field sobriety test or to submit to testing to determine your blood alcohol level. On or about November 12, 2004, you were convicted in the Alliance Municipal Court of Operating a Vehicle Impaired. You were fined $675.00, with credit granted for $275.00 for your participation in the driver's intervention program. You were assessed costs, and sentenced to three days in jail, all days suspended on condition of your good behavior for one year. Further, your driver's license was suspended for 180 days, and you were granted limited driving privileges. The remaining charges of Willfully Flee or Elude Officers and Use of Signal Before Changing Course, Turning or Stopping were dismissed.

(2) During the arrest, an officer observed you spitting out two white pills bearing the imprint M357. The pills were subsequently identified as a generic formulation of a Schedule III controlled substance containing five milligrams of hydrocodone bitartrate and 500 milligrams of acetaminophen. You were subsequently charged with Possession of Dangerous Drugs, in violation of Section 4729.51, Ohio Revised Code; Tampering with Evidence, in violation of Section 2921.12, Ohio Revised Code; and Obstructing Official Business, in violation of Section 525.07 of the Codified Ordinances of Alliance. On or about November 12, 2004, you entered a plea of no contest to and were found guilty of an amended charge of Drug Paraphernalia. You were fined $250.00, assessed costs, and sentenced to 30 days in jail, all days suspended on condition of your good behavior for one year. On November 12, 2004, you also entered a plea of no contest and were found guilty of Obstructing Official Business. You were fined $100.00 and assessed costs. The remaining charge of Tampering with Evidence was dismissed.

By the authority vested in the State Medical Board of Ohio by Section 4731.22(B)(26), Ohio Revised Code, you are ordered to submit to an examination. This examination will take place at **Glenbeigh Hospital, 2863 St. Rt. 45, Rock Creek, Ohio 44084, telephone number 440-563-3400**. You are to report to **Glenbeigh Admissions Office**, on **Monday, July 30, 2007**, at **10:00 a.m.**, for a 72-hour in-patient evaluation. Please contact Cathy Chambers at the above-listed telephone number one week prior to the evaluation for information regarding admission procedures and for driving directions.

Pursuant to Section 4731.22(B)(26), Ohio Revised Code, you are responsible for the expense of this evaluation. The total estimated cost of this evaluation is **$1,800.00**. <u>You must present a certified check or money order in the amount of $1,800.00 made payable to **Glenbeigh Hospital** to the examiner prior to the beginning of the examination.</u> Failure to present a certified check or money order in the amount specified to the examiner will result in the examination being cancelled, and will be deemed by the Board to be a failure to submit to the examination as directed due to circumstances within your control.

Please be advised that failure to submit to this examination as directed constitutes an admission of the allegations against you unless the failure is due to circumstances beyond your control, and that a default and final order may thereupon be entered without the taking of testimony or presentation of evidence.

Copies of the applicable statute sections are enclosed for your information.

(St. Ex. 2 at 3-4) (Emphasis in original) A certified-mail receipt shows that the letter was received on June 23, 2007. (St. Ex. 2 at 1, 5)

3. On July 25, 2007, Mr. Moore sent a letter to the Board as follows:

> I am responding to your order to submit to an examination at Glenbeigh Hospital July 30th, 2007. I respect your decision and am willing to submit to the examination However, the stability of my finances makes it impossible to go at this time. I am not practicing at this time but would like to resume practice in the future. I am asking for a postponement until I can raise the funds.

(St. Ex. 2 at 8)

4. Mr. Moore's letter was sent to the Board's offices at 77 South High Street in Columbus. It was stamped as having been received at the Board on July 27, 2007. However, at that time, the Board had moved to new offices at 30 East Broad Street in Columbus. The Enforcement Attorney coordinating this matter for the Board, Cheryl D. Pokorny, stated that, by the time she received Mr. Moore's July 25 letter, the examination date had passed. Ms. Pokorny testified that she did not respond to Mr. Moore's request for a postponement because the appointment date had passed before she received the request. (St. Ex. 2 at 8-9; Tr. at 11-13, 15)

5. Ms. Pokorny further testified that no one at the Board had responded to Mr. Moore's request for a postponement: "By the time I received this request, his appointment time had come and gone. So it is not possible to postpone what has already passed." (Tr. at 15)

6. Ms. Pokorny noted, however, that "there are times when an emergency or circumstances do come up, and we work with the licensees to reschedule to a convenient time." She testified:

> Had he called me prior to that and we had a chance to discuss things, perhaps we might have been able to work something out. * * * I would have explored with him what options, what alternative avenues he had pursued in an attempt to raise the funds, knowing that I had sent the notice out well in advance to give him time to do that. And because he did not contact me prior to his appointment time and explain to me the efforts that he had gone to in order to raise this money and perhaps do so unsuccessfully, I did not respond to this. I can't postpone what's already happened.

(Tr. at 15)

7. Ms. Pokorny stated that a mere assertion of inability to pay for the examination, without more, is not a sufficient reason to fail to appear for a Board-ordered examination:

> Although our position at the Board is mere failure to afford it, without more—simply stating "I can't afford it"—is not a reason.

(Tr. at 15)

8. Mr. Moore did not attend the examination on July 30, 2007. Glenbeigh Hospital confirmed that Mr. Moore's wife had contacted the hospital to notify them that he would not be arriving for the scheduled examination. (St. Ex. 2 at 7; Tr. at 11-12)

FINDINGS OF FACT

1. Robert M. Moore, M.T., currently holds an active license to practice massage therapy in Ohio.

2. On June 21, 2007, the State Medical Board of Ohio sent a letter to Mr. Moore ordering him to submit to an examination pursuant to Ohio Revised Code Section [R.C.] 4731.22(B)(26). The Board stated that it had determined that it had reason to believe that he was in violation of R.C. 4731.22(B)(26) based on "[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."

   The Board stated that its determination was based on one or more reasons, including an arrest on or about October 30, 2004, in Alliance, Ohio, in which Mr. Moore had been charged with "Operating a Vehicle Impaired" and other offenses. The Board stated that, on or about November 12, 2004, Mr. Moore had been convicted of Operating a Vehicle Impaired, and that his sentence had included a fine of $675.00 (with credit granted for $275.00 due to participation in a driver's intervention program), three days in jail (with all days suspended on condition of good behavior for one year), and a suspension of his driver's license for 180 days with limited driving privileges.

   Further, the Board alleged that, during the arrest, an officer had observed Mr. Moore spitting out two pills that had subsequently been identified as a generic formulation of a Schedule III controlled substance containing five milligrams of hydrocodone bitartrate and 500 milligrams of acetaminophen. The Board stated that Mr. Moore had been charged with offenses including Possession of Dangerous Drugs in violation of R.C. 4729.51, and Obstructing Official Business in violation of Section 525.07 of the Codified Ordinances of Alliance. The Board further stated that, on or about November 12, 2004, Mr. Moore had entered a plea of no contest to, and had been found guilty of, "an amended charge of Drug Paraphernalia," for which he had been fined $250, assessed costs, and sentenced to 30 days in jail, with all days suspended on condition of his good behavior for one year. In addition, the Board alleged that, on November 12, 2004, he had also entered a plea of no contest to and been found guilty of Obstructing Official Business, for which he had been fined $100 and assessed costs.

3. In its letter, the Board notified Mr. Moore that, pursuant to R.C. 4731.22(B)(26), he must submit to a 72-hour in-patient examination. The Board stated that the examination was scheduled to take place at Glenbeigh Hospital, a Board-approved treatment provider, on July 30, 2007, at 10:00 a.m. The Board further notified Mr. Moore that failure of an individual to submit to an examination as directed constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control. Finally, the letter notified him that if he failed to submit to the examination, and such

failure was not due to circumstances beyond his control, the Board would be authorized to enter a default and final order without the taking of testimony or presentation of evidence.

The Board also informed Mr. Moore that, under R.C. 4731.22(B)(26), he was responsible for the expense of this evaluation, and that the total estimated cost of the evaluation was $1,800.00. The Board stated that Mr. Moore "must present a certified check or money order in the amount of $1,800.00 made payable to Glenbeigh Hospital to the examiner prior to the beginning of the examination," and that failure to present a "certified check or money order in the amount specified to the examiner will result in the examination being cancelled, and will be deemed by the Board to be a failure to submit to the examination as directed due to circumstances within your control."

4. Mr. Moore received the Board's letter on or about June 23, 2007. He responded to the Board in a letter postmarked July 25, 2007, as follows:

> I am responding to your order to submit to an examination at Glenbeigh Hospital July 30th, 2007. I respect your decision and am willing to submit to the examination However, the stability of my finances makes it impossible to go at this time. I am not practicing at this time but would like to resume practice in the future. I am asking for a postponement until I can raise the funds.

(St. Ex. 2 at 8) The Board received Mr. Moore's letter on July 27, 2007. (St. Ex. 2 at 8)

5. Mr. Moore's letter of July 25, 2007, demonstrates his willingness to cooperate with the Board's investigation, his express intention to comply with the Board's examination order, and his good-faith attempt in advance of the examination date to reschedule the examination. In addition, his notice to Glenbeigh Hospital that he would not be attending the scheduled examination is an additional sign of his good faith in responding to the Board's order.

6. However, due to the Board's moving of its offices during the latter part of July 2007, the Board's Enforcement Attorney coordinating the investigation did not receive Mr. Moore's request for a postponement of the examination until after July 30, 2007. Thus, due to an inadvertent delay, the Board did not respond to Mr. Moore's request to reschedule his examination.

7. Mr. Moore did not attend the examination at Glenbeigh Hospital on July 30, 2007, as scheduled.

CONCLUSIONS OF LAW

1. R.C. 4731.22(B) provides, in pertinent part:

> The board * * * shall * * * limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or

> reprimand or place on probation the holder of a certificate for one or more of the following reasons:
>
> * * *
>
> (26) 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.
>
> * * * **By filing an application for or holding a certificate to practice under this chapter, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the board in writing,** and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications.
>
> If it has reason to believe that any individual authorized to practice by this chapter or any applicant for certification to practice suffers such impairment, **the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined.** Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is chosen by the board.
>
> **Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence.** If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's certificate or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or renewed certification to practice, to submit to treatment.

(Emphasis added)

2. Rule 4731-16-01(A) of the Ohio Administrative Code defines the term "impairment" as used in Revised Code 4731:

> (A) "Impairment" means 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. Impairment includes inability to practice in accordance with such standards, and inability to practice in accordance with such standards without appropriate treatment, monitoring or supervision.

Further, Rule 4731-16-02 provides in part:

> (A) Should the board have reason to believe that any licensee or applicant suffers from impairment, as that term is used in * * * division (B)(26) of section 4731.22

> of the Revised Code, * * * it may compel the individual to submit to a mental or physical examination, or both. Such examinations shall be undertaken by an approved treatment provider designated by the board. The notice issued ordering the individual to submit to examination shall delineate acts, conduct or behavior committed or displayed which establish reason to believe that the individual is impaired. Failure to submit to examination ordered by the board constitutes an admission of impairment unless the failure is due to circumstances beyond the individual's control.
>
> (B) * * * [T]he following general pattern of action shall be followed:
>
> (1) Upon identification by the board of reason to believe that a licensee or applicant is impaired it may compel an examination or examinations as set forth in paragraph (A) of this rule. The examination must include monitoring in an inpatient setting for at least seventy-two hours, and must meet all other requirements of rule 4731-16-05 of the Administrative Code.
>
> (2) If the examination or examinations fail to disclose impairment, no action shall be initiated pursuant to * * * division (B)(26) of section 4731.22 of the Revised Code * * * unless other investigation produces reliable, substantial, and probative evidence demonstrating impairment.
>
> (3) If the examination or examinations disclose impairment, or if the board has other reliable, substantial and probative evidence demonstrating impairment, the board shall initiate proceedings to suspend the license or deny the applicant. * * *
>
> The presence of one or more of the following circumstances shall constitute independent proof of impairment and shall support license suspension or denial without the need for an examination:
> (a) The individual has relapsed during or following treatment;
> (b) The individual has applied for or requested treatment in lieu of conviction of a criminal charge or intervention in lieu of conviction of a criminal charge, or has applied for or requested entry into a similar diversion or drug intervention program;
> (c) The individual has pled guilty to or has had a judicial finding of guilt of a criminal offense that involved the individual's personal use or abuse of any controlled substance.

3. In the present matter, the Board lawfully ordered Robert M. Moore, M.T., to a 72-hour inpatient examination to assess impairment under R.C. 4731.22(B)(26).

4. A mere assertion of inability to pay for an examination ordered pursuant to R.C. 4731.22(B)(26) is not sufficient to establish that an individual's failure to appear for the examination was due to circumstances beyond his control.

5. As set forth above in Findings of Fact 4 and 5, Mr. Moore demonstrated a genuine willingness and express intent to comply with the Board's examination order, and he made a timely, good-faith effort to contact the Board to request a rescheduling of his examination. However, Mr. Moore's attempt to communicate with the Board in advance of the examination was unsuccessful due to an inadvertent delay in the delivery of his letter to the Enforcement Attorney coordinating the investigation, which was beyond Mr. Moore's control. Accordingly, Mr. Moore's failure to submit to the examination as directed was due to circumstances beyond his control, meriting a rescheduling of the examination.

6. For the reasons set forth above in Findings of Fact 4 through 6, and Conclusion of Law 5, the evidence does not establish that Mr. Moore failed to cooperate in a Board investigation in violation of R.C. 4731.22(B)(34).

   In addition, the notice of opportunity for hearing did not give adequate notice regarding the alleged violation of R.C. 4731.22(B)(34) because it did not set forth the proposed penalties for this alleged violation and it did not make clear that a hearing could be requested regarding this alleged violation. Accordingly, for this additional and separate reason, the record is not sufficient to conclude that Mr. Moore's conduct constitutes "[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section," as that language is used in R.C. 4731.22(B)(34).

* * * * *

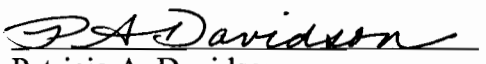
The evidence is clear that Mr. Moore did not submit to the examination as scheduled by the Board. Nevertheless, he made a good-faith effort to cooperate with the Board's examination order, and he sought in a reasonable manner to reschedule the date of his examination. However, through no fault on the part of Mr. Moore or the Board, his attempt to communicate with the Board was unsuccessful. Under the circumstances, it is appropriate to reschedule his examination.

PROPOSED ORDER

It is hereby ORDERED that:

The impairment examination of Robert M. Moore, M.T., pursuant to R.C. 4731.22(B)(26), which originally was scheduled to commence on July 30, 2007, shall be rescheduled at the Board's direction.

This Order shall become effective immediately upon the mailing of notification of approval by the Board.



Patricia A. Davidson
Hearing Examiner

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

EXCERPT FROM THE DRAFT MINUTES OF DECEMBER 12, 2007

REPORTS AND RECOMMENDATIONS

Dr. Kumar announced that the Board would now consider the Reports and Recommendations appearing on its agenda. He asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings of fact, conclusions of law, and orders, and any objections filed in the matters of: Kimberli Jo Burback; Michael Shane Gainey, M.D.; Russell L. Gaudett; Cynthia Joan Johnson, P.A.; Kandhasamy Kannapiran, MD.; Ali Khan, M.D.; Robert M. Moore, M.T.; Kolli Mohan Prasad, M.D.; Willie Calvin Rabb, Jr., D.P.M.; Mary Ellen Ratcliff; and Robert Rowan Summers, D.O. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Mr. Hairston	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

Dr. Kumar asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Mr. Hairston	- aye

Dr. Amato	- aye
Dr. Steinbergh	- aye
Dr. Kumar	- aye

Dr. Kumar noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

.....

The meeting recessed at 3:50 p.m. When it reconvened at 4:53 p.m., Dr. Amato was absent.

ROBERT M. MOORE, M.T.

.....

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF ROBERT M. MOORE, M.T. MR. BROWNING SECONDED THE MOTION.

.....

A vote was taken on Dr. Steinbergh's motion:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Mr. Hairston	- abstain
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

The motion carried.

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

September 12, 2007

Robert M. Moore, M.T
910 East Bayton Street
Alliance, Ohio 44601

Dear Mr. Moore:

Due to your failure to submit to an examination on July 30, 2007, as ordered by the State Medical Board of Ohio [Board] and your failure to notify the Board of any circumstances beyond your control preventing you from submitting to said examination, pursuant to Section 4731.22(B)(26), Ohio Revised Code, a legal presumption has been established that you have admitted the factual and legal allegations demonstrating an impairment of your 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 alleged against you in the Board's letter dated June 21, 2007, and sent to you by certified mail [June 21, 2007 certified letter], so ordering you to submit to such examination.

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the Board intends, for one or more of the following reasons, to determine whether your failure to submit to the aforementioned examination was due to circumstances beyond your control, which would rebut the legal presumption of impairment and merit rescheduling the examination as directed by the Board, or conversely, whether your failure to submit to the aforementioned examination was due to circumstances within your control, which would render the legal presumption of impairment conclusive and result in the Board further determining whether to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice massage therapy, or to reprimand you or place you on probation based upon your legally admitted impairment:

(1) By letter dated June 21, 2007, the Board notified you of its determination that it had reason to believe that you are in violation of Section 4731.22(B)(26), Ohio Revised Code, and ordered you to undergo a 72-hour inpatient examination to determine if you are in violation of Section 4731.22(B)(26), Ohio Revised Code. The Board's determination was based upon one or more of the reasons outlined in such letter, which included the following reasons.

(a) On or about October 30, 2004, you were arrested in Alliance, Ohio, and charged with Operating a Vehicle Impaired, Willfully Flee or Elude Officers, and Use of Signal Before Changing Course, Turning or Stopping. You refused to perform

Mailed 9.13.07

a field sobriety test or to submit to testing to determine your blood alcohol level. On or about November 12, 2004, you were convicted in the Alliance Municipal Court of Operating a Vehicle Impaired. You were fined $675.00, with credit granted for $275.00 for your participation in the driver's intervention program. You were assessed costs, and sentenced to three days in jail, all days suspended on condition of your good behavior for one year. Further, your driver's license was suspended for 180 days, and you were granted limited driving privileges. The remaining charges of Willfully Flee or Elude Officers and Use of Signal Before Changing Course, Turning or Stopping were dismissed.

(b) During the arrest, an officer observed you spitting out two white pills bearing the imprint M357. The pills were subsequently identified as a generic formulation of a Schedule III controlled substance containing five milligrams of hydrocodone bitartrate and 500 milligrams of acetaminophen. You were subsequently charged with Possession of Dangerous Drugs, in violation of Section 4729.51, Ohio Revised Code; Tampering with Evidence, in violation of Section 2921.12, Ohio Revised Code; and Obstructing Official Business, in violation of Section 525.07 of the Codified Ordinances of Alliance. On or about November 12, 2004, you entered a plea of no contest to and were found guilty of an amended charge of Drug Paraphernalia. You were fined $250.00, assessed costs, and sentenced to 30 days in jail, all days suspended on condition of your good behavior for one year. On November 12, 2004, you also entered a plea of no contest and were found guilty of Obstructing Official Business. You were fined $100.00 and assessed costs. The remaining charge of Tampering with Evidence was dismissed.

(2) The June 21, 2007 certified letter from the Board further notified you that, pursuant to Section 4731.22(B)(26), Ohio Revised Code, you were ordered to submit to a 72-hour in-patient examination. The examination was scheduled to take place at Glenbeigh Hospital, a Board-approved treatment provider, on July 30, 2007, at 10:00 a.m.

The June 21, 2007 certified letter from the Board further notified you that failure of an individual to submit to an examination as directed constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control. Finally, the letter notified you that if you failed to submit to the examination, and such failure was not due to circumstances beyond your control, the Board would be authorized to enter a default and final order without the taking of testimony or presentation of evidence.

(3) You were duly notified of the examination order and its scheduled date. The certified letter return receipt is signed and dated June 23, 2007.

(4) By letter dated August 2, 2007, received by the Board in its office on August 13, 2007, the Board was notified that you failed to appear for the examination that the Board scheduled for you. Although you asserted that you were unable to appear for the examination that the Board scheduled for you due to your personal financial concerns, at no time did you establish that your failure to appear was due to any circumstances beyond your control. Accordingly, pursuant to Section 4731.22(B)(26), Ohio Revised Code, and in consideration of the affidavits of Cheryl D. Pokorny, Enforcement Attorney, and Debra L. Jones, CME & Renewal Officer, copies of which are attached hereto and fully incorporated herein, the Board hereby FINDS that you have admitted the truth of the allegations demonstrating impairment as set forth in the June 21, 2007 letter from the Board. The Board FINDS that pursuant to Section 4731.22(B)(26), Ohio Revised Code, your failure to appear for the examination ordered by the Board as directed constitutes "[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.

Section 4731.22(B)(26), Ohio Revised Code, provides that any individual authorized to practice accepts the privilege of practicing in this state subject to supervision by the Board; that by filing an application for or holding a certificate to practice, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the Board in writing; and that the expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination ordered by the Board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) through (4) 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.

Further, your acts, conduct, and/or omissions as alleged in paragraph (4) above, individually and/or collectively, constitute "[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue," as that clause is used in Section 4731.22(B)(34), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, and Chapter 4731., Ohio Revised Code, you are hereby advised that you are entitled to a hearing concerning whether your failure to submit to the examination as directed was due to circumstances beyond your control. 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.

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 massage therapy 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,

Lance A. Talmage, M.D.
Secretary

LAT/CDP/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3931 8317 1128
RETURN RECEIPT REQUESTED

AFFIDAVIT

The State of Ohio
Franklin County, SS

I, Debra L. Jones, being duly cautioned and sworn, do hereby depose and say that:

1) I am employed by the State Medical Board of Ohio [Board].

2) I serve the Board in the position of Continuing Medical Education and Renewal Officer.

3) In such position, I am the responsible custodian of all public licensee records maintained by the Board pertaining to individuals who have received certificates issued pursuant to Chapter 4731., Ohio Revised Code.

4) I have this day carefully examined the records of the Board pertaining to Robert M. Moore, M.T.

5) Based on such examination, I have found the last known address of record of Robert M. Moore, M.T. to be:

910 East Bayton Street
Alliance, Ohio 44601

6) Further, Affiant Sayeth Naught.

Debra L. Jones
Continuing Medical Education and
Renewal Officer

Sworn to and signed before me, CHERYL D. POKORNY, ~~Notary Public~~/Attorney at Law, this 10th day of SEPTEMBER, 2007.

Cheryl D. Pokorny
~~Notary Public/~~Attorney at Law

Cheryl D. Pokorny
State of Ohio
Attorney At Law
Lifetime Commission

AFFIDAVIT

The State of Ohio
Franklin County, SS

I, Cheryl D. Pokorny, being duly cautioned and sworn, do hereby depose and state that the following is true based upon my first-hand knowledge:

1) I am employed by the State Medical Board of Ohio [Board].

2) I serve the Board in the position of Enforcement Attorney.

3) In the course of my regular duties, I am responsible for coordinating the investigation of complaints against applicants and licensees under the jurisdiction of the Board and assembling the evidence necessary to prove potential violations of the Medical Practices Act of Ohio, Chapters 4730., 4731., 4760., and 4762., Ohio Revised Code.

4) I coordinated the investigation of the application for renewal of certificate to practice massage therapy in Ohio, submitted by Robert M. Moore, M.T. Said investigation resulted in the issuance of an order from the Board for Mr. Moore to submit to an examination pursuant to Section 4731.22(B)(26), Ohio Revised Code.

5) On June 21, 2007, a letter was sent via certified mail, return receipt requested, to Mr. Moore at the following address: 910 East Bayton Street, Alliance, Ohio 44601. A copy of said letter, by which Mr. Moore was ordered to submit to a seventy-two hour in-patient evaluation at Glenbeigh Hospital, 2863 St. Rt. 45, Rock Creek, Ohio, commencing on July 30, 2007, at 10:00 a.m., is attached hereto and fully incorporated herein.

6) On June 25, 2007, the Board received electronic notice of a certified mail return receipt showing that the certified letter to Mr. Moore had been delivered to the address set forth in paragraph 5. Although the signature is illegible, the electronic notice indicated that the letter was received by Mr. Moore or his representative on June 23, 2007, at 11:14 a.m. A copy of said electronic certified mail return receipt is attached hereto and fully incorporated herein.

7) On July 30, 2007, I was notified telephonically by a representative of Glenbeigh Hospital that Mr. Moore failed to appear at Glenbeigh Hospital for the examination that the Board scheduled for him. On August 13, 2007, I received written confirmation of Mr. Moore's failure to appear for the examination as ordered by the Board, a copy of which is attached hereto and fully incorporated herein.

8) Later in the day on July 30, 2007, I received a letter from Mr. Moore, indicating that he would not be appearing at Glenbeigh Hospital for the evaluation, due to "the stability of [his] finances." Although the letter was received in the Board's office on July 27, 2007, due to the relocation of the Board's office on that date, I did not

receive the letter until July 30, 2007. A copy of the letter is attached hereto and fully incorporated herein.

9) At no time did Mr. Moore explain why his failure to appear was for circumstances beyond his control.

Further, Affiant Sayeth Naught.

Cheryl D. Pokorny

Cheryl D. Pokorny, Enforcement Attorney

Sworn to and signed before me, Barbara Jacobs, Notary Public, this 10th day of September, 2007.

Barbara A. Jacobs

Notary Public

BARBARA ANN JACOBS, ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date.
Section 147.03 R.C.

State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

June 21, 2007

Personal and Confidential

Robert M. Moore, M.T.
910 East Bayton Street
Alliance, Ohio 44601

Dear Mr. Moore:

The State Medical Board of Ohio [Board] has determined that it has reason to believe that you are in violation of Section 4731.22(B)(26), Ohio Revised Code, to wit: "[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."

This determination is based upon one or more of the following reasons:

(1) On or about October 30, 2004, you were arrested in Alliance, Ohio, and charged with Operating a Vehicle Impaired, Willfully Flee or Elude Officers, and Use of Signal Before Changing Course, Turning or Stopping. You refused to perform a field sobriety test or to submit to testing to determine your blood alcohol level. On or about November 12, 2004, you were convicted in the Alliance Municipal Court of Operating a Vehicle Impaired. You were fined $675.00, with credit granted for $275.00 for your participation in the driver's intervention program. You were assessed costs, and sentenced to three days in jail, all days suspended on condition of your good behavior for one year. Further, your driver's license was suspended for 180 days, and you were granted limited driving privileges. The remaining charges of Willfully Flee or Elude Officers and Use of Signal Before Changing Course, Turning or Stopping were dismissed.

(2) During the arrest, an officer observed you spitting out two white pills bearing the imprint M357. The pills were subsequently identified as a generic formulation of a Schedule III controlled substance containing five milligrams of hydrocodone bitartrate and 500 milligrams of acetaminophen. You were subsequently charged with Possession of Dangerous Drugs, in violation of Section 4729.51, Ohio Revised Code; Tampering with Evidence, in violation of Section 2921.12, Ohio Revised Code; and Obstructing Official Business, in violation of Section 525.07 of the Codified Ordinances of Alliance. On or about November 12, 2004, you entered a plea of no contest to and were found guilty of an amended charge of Drug Paraphernalia. You were fined $250.00, assessed costs, and sentenced to 30 days in jail, all days suspended on

condition of your good behavior for one year. On November 12, 2004, you also entered a plea of no contest and were found guilty of Obstructing Official Business. You were fined $100.00 and assessed costs. The remaining charge of Tampering with Evidence was dismissed.

By the authority vested in the State Medical Board of Ohio by Section 4731.22(B)(26), Ohio Revised Code, you are ordered to submit to an examination. This examination will take place at **Glenbeigh Hospital, 2863 St. Rt. 45, Rock Creek, Ohio 44084, telephone number 440-563-3400**. You are to report to **Glenbeigh Admissions Office**, on **Monday, July 30, 2007**, at **10:00 a.m.**, for a 72-hour in-patient evaluation. Please contact Cathy Chambers at the above-listed telephone number one week prior to the evaluation for information regarding admission procedures and for driving directions.

Pursuant to Section 4731.22(B)(26), Ohio Revised Code, you are responsible for the expense of this evaluation. The total estimated cost of this evaluation is **$1,800.00**. You must present a certified check or money order in the amount of $1,800.00 made payable to **Glenbeigh Hospital** to the examiner prior to the beginning of the examination. Failure to present a certified check or money order in the amount specified to the examiner will result in the examination being cancelled, and will be deemed by the Board to be a failure to submit to the examination as directed due to circumstances within your control.

Please be advised that failure to submit to this examination as directed constitutes an admission of the allegations against you unless the failure is due to circumstances beyond your control, and that a default and final order may thereupon be entered without the taking of testimony or presentation of evidence.

Copies of the applicable statute sections are enclosed for your information.

Very truly yours,

Lance A. Talmage, M.D.

Lance A. Talmage, M.D.
Secretary

LAT/CDP/flb

Enclosures

CERTIFIED MAIL #91 7108 2133 3931 8318 3831
RETURN RECEIPT REQUESTED

MOORE CDP

UNITED STATES POSTAL SERVICE

Date Produced: 06/25/2007

STATE MEDICAL BOARD OF OHIO

The following is the delivery information for Certified item number 7108 2133 3931 8318 3831. Our records indicate that this item was delivered on 06/23/2007 at 11:14 a.m. in ALLIANCE, OH, 44601. The scanned image of the recipient information is provided below.

Signature of Recipient: Delivery Section

Address of Recipient: 910 E. Boyton St 44601

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Sincerely,

United States Postal Service

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Customer Reference Number: 4225901 18019711MOORE CDP

CDP

Confirmation Services Report

Pitney Bowes

DUNS Number: 045780876
PBP Account Number: 18019711
Serial Number: 0004225901
Date Printed: JUN 21 2007

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Glenbeigh
Cleveland Clinic affiliate

P.O. BOX 298 • ROCK CREEK, OHIO 44084-0298 • 440-563-3400 • FAX 440-563-9619

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Joint Commission
On Accreditation of
Healthcare Organizations

August 2, 2007

Cheryl Pokorny
Enforcement Attorney
Ohio State Medical Board
30 South High St.
3rd Floor
Columbus, Ohio 42215-6127

Dear Cheryl Pokorny,

I am writing you this letter to inform you that Robert Moore did not keep his three day inpatient evaluation appointment for 07-30-07. He was supposed to complete this evaluation at Glenbeigh 2863 State Route 45 Rock Creek, Ohio 44084. Roberts wife canceled his appointment for him. Robert nor his wife rescheduled his appointment. If you have any further questions or comments please do not hesitate to contact me at 440-563-3400 ext. 1014.

OHIO STATE MEDICAL BOARD
AUG 13 2007
RECEIVED

Sincerely,
Kathryn Chambers LICDC
Kathryn Chambers LICDC
Intake Coordinator

CONFIDENTIAL, THIS INFORMATION HAS BEEN DISCLOSED TO YOU FROM CONFIDENTIAL RECORDS. ANY FURTHER DISCLOSURE OF IT WITHOUT THE SPECIFIC WRITTEN CONSENT OF THE PERSON TO WHOM IT PERTAINS, OR AS OTHERWISE PERMITTED BY LAW, IS PROHIBITED

Robert MOORE
910 E. BAYTON ST.
ALLIANCE, OHIO
44601

OHIO STATE MEDICAL BOARD

JUL 27 2007

RECEIVED

Dear Medical Board,

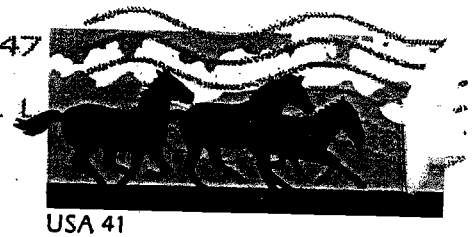
I am responding to your order to submit to an examination at Glenbeigh Hospital July 30th, 2007. I respect your decision and am willing to submit to the examination. However the stability of my finances makes it impossible to go at this time. I am not practicing at this time but would like to resume practice in the future. I am asking for a postponement until I can raise the funds.

Sincerely

Robert M. Moore

MOORE
910 E. BAYDON
ALLIANCE OHIO
44601

CANTON OH 447
25 JUL 2007 PM 1



USA 41

STATE MEDICAL BOARD
77 S. High St 17th FLOOR
Columbus, Ohio
43215-6127

43215+1478 C003