THE STATE MEDICAL BOARD OF OHIO
REQUEST FOR WITHDRAWAL OF
APPLICATION FOR REINSTATEMENT OF
MASSAGE THERAPY LICENSE

I, Mark Anthony Mitchell, M.T., hereby request that my pending application for reinstatement of my certificate to practice massage therapy in the State of Ohio be withdrawn due to my intention to relocate outside Ohio. By signing this Request for Withdrawal of Application for Reinstatement, I acknowledge that my certificate to practice massage therapy in the State of Ohio will remain suspended pursuant to the Board's May 14, 2003, Findings, Order and Journal Entry In the Matter of Mark A. Mitchell, M.T. [2003 FOJE], and that all other terms of the 2003 FOJE, which include, but are not limited to, requirements for reinstatement evaluations, inpatient treatment and compliance with an aftercare agreement, remain in full force and effect.

It is understood and agreed that this Request for Withdrawal of Application for Reinstatement is not a disciplinary action, but shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. I, Mark Anthony Mitchell, M.T., acknowledge that my social security number will be used if this information is so reported and agree to provide my social security number to the Board for such purposes. I, Mark Anthony Mitchell, M.T., hereby release the State Medical Board of Ohio, its members, employees, agents and officers, jointly and severally, from any and all liability arising from the within matter.

It is expressly understood that this Request for Withdrawal of Application for Reinstatement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

Mark Anthony Mitchell
MARK ANTHONY MITCHELL, M.T.

Sworn to before me on this 12/28 day of Dec., 2005.

(SEAL)

Constance M Moore
NOTARY PUBLIC
Exp Date 10-3-07

Lance A. Talmage MD
LANCE A. TALMAGE, M.D.
SECRETARY

1-12-06
DATE

Raymond J. Albert
RAYMOND J. ALBERT
SUPERVISING MEMBER

1/12/06
DATE

OHIO STATE MEDICAL BOARD

DEC 2 9 2005

State Medical Board of Ohio

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

December 14, 2005

Mark A. Mitchell, L.M.T.
1608 Arnold N.W.
Canton, OH 44709

Dear Mr. Mitchell:

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

(1) On or about May 14, 2003, the Board entered Findings, Order and Journal Entry In the Matter of Mark A. Mitchell, M.T. [2003 Board Order], based upon your failure to submit, as ordered by the Board, to a three-day in-patient evaluation for chemical dependence at Glenbeigh Hospital, a Board-approved treatment provider in Rock Creek, Ohio. The 2003 Board Order found that you were unable to practice massage therapy according to acceptable and prevailing standards of care due to your 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," and suspended your certificate to practice massage therapy for an indefinite period of time. To date, you remain subject to all terms, findings and orders of the 2003 Board Order, a copy of which is attached hereto and fully incorporated herein.

In addition, the 2003 Board Order advised you that the Board shall not consider reinstatement of your certificate to practice massage therapy unless and until you are able to demonstrate to the satisfaction of the Board that you can resume practice in compliance with acceptable and prevailing standards of care under the provisions of such a certificate. Pursuant to Paragraph 2.b. of the 2003 Board Order, such demonstration shall include but shall not be limited to the following:

i. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that [you have] successfully completed any required inpatient treatment.

Mailed 12-15-05

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

iii. Two written reports indicating that [your] ability to practice has been assessed and that [you have] been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the Board for making such assessments. Prior to the evaluations, [you] shall provide the evaluators with a copy of [the 2003 Board Order] and any other information that the Board deems may be appropriate to the evaluator. The reports shall describe the basis for this determination and a detailed recommended plan of any care, counseling, and/or treatment that may be required for [you]. All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement.

(2) In or about February of 2004, you submitted a request for reinstatement of your certificate to practice massage therapy, which remains suspended pursuant to the 2003 Board Order.

(a) Despite the requirement set forth in Paragraph 2.b.i. of the 2003 Board Order, you have failed to provide certification from a Board-approved treatment provider that you have successfully completed inpatient treatment for chemical dependence, as set forth in Rules 4731-16-02(B)(4)(a) and 4731-16-08(A)(13), Ohio Administrative Code.

(b) Despite the requirement set forth in Paragraph 2.b.ii. of the 2003 Board Order, you have failed to provide evidence of compliance with an aftercare contract that you have entered into with a Board-approved treatment provider.

(c) On or about September 27, 2004, you went to Glenbeigh Health Sources [Glenbeigh], a Board-approved treatment provider in Rock Creek, Ohio, for a reinstatement assessment as required by the 2003 Board Order. Despite the requirement set forth in Paragraph 2.b.iii. of the 2003 Board Order, you failed to provide the evaluators at Glenbeigh with a copy of the 2003 Board Order prior to the assessment. On or about November 19, 2004, the Board received

a written report of your assessment from Glenbeigh, opining that you are not impaired.

Although you have requested reinstatement of your certificate to practice massage therapy in Ohio, and you have caused to be submitted to the Board two written reports related to chemical dependency assessments conducted in pursuit of such licensure reinstatement request, you have failed to fulfill the requisite terms, conditions, and requirements set forth in the 2003 Board Order related to reinstatement of your certificate, including the requirement that you provide certification of completion of inpatient treatment, the requirement that you show evidence of compliance with an aftercare contract with a Board-approved treatment provider, and/or the condition that you provide a copy of the 2003 Board Order to the evaluator prior to obtaining a chemical dependency assessment indicating that your ability to practice has been assessed and that you have been found capable of practicing according to acceptable and prevailing standards of care.

Your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute a "[v]iolation of the conditions of limitation placed by the board upon a certificate to practice," as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

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

CERTIFIED MAIL # 7003 0500 0002 4330 3648
RETURN RECEIPT REQUESTED

Duplicate mailing:

2327 4th Street NW
Canton, OH 44708

CERTIFIED MAIL # 7003 0500 0002 4330 3631
RETURN RECEIPT REQUESTED

Triplicate mailing:

219 13th Street NW
Canton, OH 44703

CERTIFIED MAIL # 7003 0500 0002 4330 3624
RETURN RECEIPT REQUESTED

THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF	*
MARK A. MITCHELL, M.T.	*
	*

FINDINGS, ORDER AND JOURNAL ENTRY

On February 19, 2003, the State Medical Board of Ohio sent to Mark A. Mitchell, M.T., [Mr. Mitchell] a letter via certified mail, return receipt requested, stating that the Board had reason to believe that Mr. Mitchell was unable to practice according to acceptable and prevailing standards of care pursuant to 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."

The letter further indicated that this determination was based upon one or more of the following reasons:

(1) On September 14, 1999, Mr. Mitchell entered a Plea of No Contest and was found guilty in Canton Municipal Court of violating Ohio Revised Code Section 4511.19(A)(1), Driving While Under the Influence of Alcohol or Drugs. At the time of the offense, September 7, 1999, Mr. Mitchell had a blood alcohol concentration of .107.

(2) On April 1, 2000, Mr. Mitchell was arrested for operating a motor vehicle under the influence of alcohol or drugs. On May 17, 2000, Mr. Mitchell entered a plea of No Contest and was found guilty in Canton Municipal Court of violating Ohio Revised Code Section 4511.19(A)(1), Driving While Under the Influence of Alcohol or Drugs.

(3) On December 11, 2000, Mr. Mitchell was arrested for operating a motor vehicle while under the influence of alcohol or drugs, operating a motor vehicle while under a license suspension and speeding. At the time of his arrest, Mr. Mitchell refused to take a Breathalyzer test. On January 16, 2001, Mr. Mitchell entered a plea of No Contest and was found guilty in Canton Municipal Court of violating Ohio Revised Code Section 4511.19(A)(1), Driving While Under the Influence of Alcohol or Drugs.

(4) On January 11, 2001, Mr. Mitchell was arrested again for operating a motor vehicle while under the influence of alcohol or drugs. According to the complaint for this arrest, filed in Massillon Municipal Court on February 26,

2001, Mr. Mitchell failed a field sobriety test and had a blood alcohol concentration of .086. Even though the complaint for this arrest was not pursued, it includes Mr. Mitchell's admission to taking a prescription medicine while consuming alcohol, despite the fact that the prescription container carried a warning about mixing the medication with alcohol.

The February 19, 2003, certified letter from the Board notified Mr. Mitchell that, pursuant to Section 4731.22(B)(26), Ohio Revised Code, he was ordered to submit to a three-day in-patient evaluation at Glenbeigh Hospital, Rock Creek, Ohio, on March 24, 2003.

The February 19, 2003, certified letter from the Board further notified Mr. Mitchell 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 Mr. Mitchell 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.

Mr. Mitchell was duly notified of the examination order and its scheduled date. The certified letter return receipt was signed for at Mr. Mitchell's address of record on February 22, 2003. Mr. Mitchell advised an employee of the Board on March 19, 2003, that he had received the certified letter, but that he would not appear for the examination. On March 24, 2003, the Board was notified telephonically, by a representative of Glenbeigh Hospital, that Mr. Mitchell failed to appear at Glenbeigh Hospital for the examination that the Board scheduled for him. At no time did Mr. Mitchell inform the Board that his failure to appear was due to circumstances beyond his control.

WHEREFORE, pursuant to Section 4731.22(B)(26), Ohio Revised Code, the Board hereby FINDS that Mark A. Mitchell, M.T., has admitted the truth of the allegations set forth in the February 19, 2003, letter from the Board to Mr. Mitchell. The Board further FINDS that Mr. Mitchell is unable to practice according to acceptable and prevailing standards of care pursuant to 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."
WHEREFORE, it is hereby ORDERED that:

1. The certificate of Mark A. Mitchell, M.T., to practice massage therapy in the State of Ohio shall be SUSPENDED for an indefinite period of time.

2. The Board shall not consider reinstatement of Mr. Mitchell's certificate to practice massage therapy unless and until all of the following conditions are met:

a. Mr. Mitchell shall submit an application for reinstatement, accompanied by appropriate fees, if any.

b. Mr. Mitchell shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care under the provisions of such a certificate. Such demonstration shall include but shall not be limited to the following:

   i. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Mr. Mitchell has successfully completed any required inpatient treatment.

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

   iii. Two written reports indicating that Mr. Mitchell'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 individuals or providers approved by the Board for making such assessments. Prior to the evaluations, Mr. Mitchell shall provide the evaluators with a copy of this Order and any other information that the Board deems may be appropriate to the evaluator. The reports shall describe the basis for this determination and a detailed recommended plan of any care, counseling, and/or treatment that may be required for Mr. Mitchell. All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement.

c. Mr. Mitchell shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board or, if the Board and Mr. Mitchell are unable to agree on the terms of a written consent agreement, then Mr. Mitchell further agrees to abide by any terms, conditions and limitations imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Ohio Revised Code.

   Further, upon reinstatement of Mr. Mitchell's certificate to practice massage therapy in this state, the Board shall require continued monitoring which shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with

conditions imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Revised Code and, upon termination of the consent agreement or Board Order, submission to the Board for at least two years of annual progress reports made under penalty of Board disciplinary action or criminal prosecution stating whether Mr. Mitchell has maintained sobriety.

3. In the event that Mr. Mitchell has not been engaged in the active practice of massage therapy for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Mr. Mitchell's fitness to resume practice.

4. Within thirty days of the effective date of this Order, Mr. Mitchell shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Further, Mr. Mitchell shall provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement of any professional license. Further, Mr. Mitchell shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

   Within thirty days of the effective date of this Order, Mr. Mitchell shall provide a copy of this Order to all employers or entities with which he is under contract to provide massage therapy services or where he is receiving training.

This Order shall become effective immediately upon the date of mailing of approval by the State Medical Board of Ohio.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 14th day of May, 2003, and the original thereof shall be kept with said Journal.

Anand G. Garg, M.D.
Secretary

(SEAL)

May 14, 2003
Date

State Medical Board of Ohio

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

May 14, 2003

Mark Anthony Mitchell, M.T.
405 2nd Street NW, Room 701
Canton, OH 44702

Dear Mr. Mitchell:

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, 2003.

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 a Notice of Appeal with the State Medical Board of Ohio and 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,

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. 7000 0600 0024 5151 1268
RETURN RECEIPT REQUESTED

Cc: 424 Wallace Avenue Se
Canton, OH 44707-2755
CERTIFIED MAIL RECEIPT NO. 7000 0600 0024 5151 1251
RETURN RECEIPT REQUESTED

Mailed 5/15/03

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, 2003, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of Mark Anthony Mitchell, M.T., 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.

Anand G. Garg, M.D.
Secretary

(SEAL)

May 14, 2003
Date

THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF	*
MARK A. MITCHELL, M.T.	*
	*

FINDINGS, ORDER AND JOURNAL ENTRY

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   Further, upon reinstatement of Mr. Mitchell's certificate to practice massage therapy in this state, the Board shall require continued monitoring which shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with

conditions imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Revised Code and, upon termination of the consent agreement or Board Order, submission to the Board for at least two years of annual progress reports made under penalty of Board disciplinary action or criminal prosecution stating whether Mr. Mitchell has maintained sobriety.

3. In the event that Mr. Mitchell has not been engaged in the active practice of massage therapy for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Mr. Mitchell's fitness to resume practice.

4. Within thirty days of the effective date of this Order, Mr. Mitchell shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Further, Mr. Mitchell shall provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement of any professional license. Further, Mr. Mitchell shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

   Within thirty days of the effective date of this Order, Mr. Mitchell shall provide a copy of this Order to all employers or entities with which he is under contract to provide massage therapy services or where he is receiving training.

This Order shall become effective immediately upon the date of mailing of approval by the State Medical Board of Ohio.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 14th day of May, 2003, and the original thereof shall be kept with said Journal.

Anand G. Garg, M.D.
Secretary

(SEAL)

May 14, 2003
Date