

# 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 10, 2008

Dereck Aaron Peery, D.O.  
179 Yorktown Road  
Arkdmore, OK 73401

RE: 08-CRF-046

Dear Doctor Peery:

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 September 10, 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,

A handwritten signature in black ink that reads "Lance A. Talmage MD".

Lance A. Talmage, M.D.  
Secretary

LAT:jam  
Enclosures

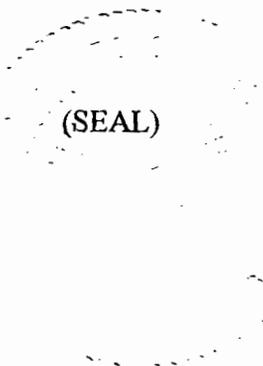
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RETURN RECEIPT REQUESTED

*Mailed 9-11-08*

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 September 10, 2008, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of Dereck Aaron Peery, D.O., Case Number 08-CRF-046, 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.*

Lance A. Talmage, M.D.  
Secretary

September 10, 2008

Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF :  
 : Case No. 08-CRF-046  
DERECK AARON PEERY, D.O. :

**FINDINGS, ORDER AND JOURNAL ENTRY**

This matter came on for consideration before the State Medical Board of Ohio on September 10, 2008, pursuant to a Notice of Opportunity for Hearing issued to Dereck Aaron Peery, D.O., on April 9, 2008. No request for hearing having been received within the statutorily mandated time period, Hearing Examiner Patricia A. Davidson, Esq., on behalf of the Board, reviewed and summarized evidence supporting the Notice, and prepared Proposed Findings and a Proposed Order.

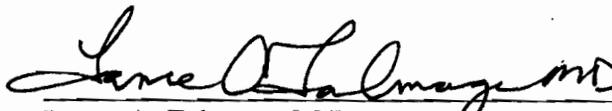
WHEREFORE, having reviewed Ms. Davidson's Proposed Findings and Proposed Order, which is attached hereto and incorporated herein, the Board hereby adopts the Proposed Findings and Proposed Order.

Accordingly, it is hereby ORDERED that:

The certificate of Dereck Aaron Peery, D.O., to practice osteopathic medicine and surgery in the State of Ohio is hereby REVOKED.

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

(SEAL)

  
Lance A. Talmage, M.D.  
Secretary

September 10, 2008 \_\_\_\_\_

Date

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**PROPOSED FINDINGS AND PROPOSED ORDER  
IN THE MATTER OF DERECK AARON PEERY, D.O.  
Case No. 08-CRF-046**

The Matter of Dereck Aaron Peery, D.O., was reviewed by Patricia Davidson, Hearing Examiner for the State Medical Board of Ohio.

**INTRODUCTION**

Basis for the Review

- A. In a notice of opportunity for hearing [Notice] dated April 9, 2008, the State Medical Board of Ohio [Board] notified Dereck Aaron Peery, D.O., that the Board intended to determine whether to take disciplinary action against his certificate to practice osteopathic medicine and surgery in Ohio. The Board explained that its proposed action was based on allegations including the following: (1) that Dr. Peery had received inpatient treatment in 2004 at Shepherd Hill, a Board-approved treatment provider for chemical dependency, and had thereafter entered an agreement with the Ohio Physicians Effectiveness Program<sup>1</sup> that prohibited him from consuming alcohol and/or drugs, and also required him to participate in a urine-testing program; and (2) that Dr. Peery, on two occasions in late July 2007, had submitted urine specimens that tested positive for a prohibited drug. (Ex. 1)

In the Notice, the Board alleged that the evidence established an “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,” as that language is used in Ohio Revised Code Section [R.C.] 4731.22(B)(26), and pursuant to Ohio Administrative Code [Rule] 4731-16-02(B)(3) and Rule 4731-16-02(B)(3)(a). (Ex. 1)

In addition, the Board notified Dr. Peery that he was entitled to a hearing if requested in writing within 30 days of the Notice’s mailing. (Ex. 1)

- B. On April 10, 2008, the Board mailed the Notice by certified mail, return receipt requested, to Dr. Peery at his most recent address of record. A signed, certified-mail receipt was received by the Board, documenting that the Notice was delivered on April 15, 2008. (Exs. 1, 3)
- C. The Public Services Administrator for the Board attested in an affidavit signed June 3, 2008, that, as of that date, the Board had not received a hearing request from Dr. Peery. (Ex. 2)
- D. In a memorandum dated June 16, 2008, the Board’s Public Services Administrator requested that a Hearing Examiner review the evidence in the *Matter of Dereck Aaron Peery, D.O.*, Case No. 08-CRF-046, and prepare a report with proposed findings and a proposed order for the Board’s consideration. (Ex. 6)

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<sup>1</sup> The Ohio Physicians Effectiveness Program is now known as the Ohio Physicians Health Program [OPHP].

### **EVIDENCE EXAMINED**

Exhibit 1: Notice of Opportunity for Hearing, with receipt documentation.

Exhibit 2: Affidavit of Barbara Jacobs, Public Services Administrator.

Exhibit 3: Affidavit of Debra Jones, Continuing Medical Education and Renewal Officer.

Exhibit 4: Affidavit of Danielle Bickers, Compliance Supervisor for the Board, with the following attachment:

Exhibit 4-1: Copies of positive drug screens in July 2007 and a copy of Dr. Peery's contract with the Ohio Physician's Effectiveness Program.

Exhibit 5: Affidavit of Angela McNair, Enforcement Attorney for the Board, with the following attachments:

Exhibit 5A: Dr. Peery's written responses to the Board's interrogatories.

Exhibit 5B: Certified copies of Dr. Peery's treatment records from Shepherd Hill.

Exhibit 6: June 2008 Memorandum from the Board's Public Service Administrator to the Board's Chief Hearing Examiner requesting a review and report from the Hearing Unit.

### **SUMMARY OF THE EVIDENCE**

All exhibits, even if not specifically mentioned, were thoroughly reviewed and considered by the Hearing Examiner prior to preparing these Proposed Findings and Proposed Order.

#### **Background**

1. Dereck Aaron Peery, D.O., was born in Ardmore, Oklahoma, in 1975. He received his degree in osteopathic medicine in 2001 from the Kansas City University of Medicine and Biosciences, and the Board granted him a training certificate (number 58.000733) in October 2001. The training certificate expired in June 2006. In September 2006, the Board granted Dr. Peery a certificate to practice osteopathic medicine and surgery in Ohio (number 34.008869), and that certificate expired in April 2008. (Ohio eLicense Center, <<https://license.ohio.gov/lookup/default.asp?division=78>>, accessed July 17, 2008).
2. In answers to interrogatories in February 2008, Dr. Peery listed the health-care facilities where he has held privileges. He listed his internship/residency programs at Doctor's Hospital West, Grant Medical Center, and Nationwide Children's Hospital in Columbus, Ohio, and fellowship programs at Mount Carmel Surgical Hospital and Mount Carmel St. Ann's in the Columbus area.<sup>2</sup> (St. Ex. 5A at 15)

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<sup>2</sup> The dates of the training programs are not set forth in Dr. Peery's answers to the interrogatories. (St. Ex. 5A at 15)

3. In the summer of 2007, Dr. Peery moved to Oklahoma. Dr. Peery informed the Board that he had initially practiced at Mercy Memorial Health Center in Ardmore, Oklahoma, and currently has an orthopedic practice at the Bone and Joint Clinic in Ardmore. In February 2008, Dr. Peery stated that he had an active, unrestricted license from the State of Oklahoma. (St. Ex. 5A at 15-17, 22-23. See, also, Oklahoma State Board of Osteopathic Examiners at <http://www.docboard.org/ok/df/oksearch.htm>.)

#### **Treatment at Shepherd Hill in 2004**

4. In January 2004, Dr. Peery was a resident at Doctors Hospital West in Columbus, Ohio. On January 20, 2004, he met with the Director of Education, who informed him that a pharmacy had contacted the hospital to report that Dr. Peery had presented a self-written prescription for Ultram to the pharmacy on January 16, 2004. (Ex. 5A at 14, 5B at 8, 124)
5. On January 21, 2001, Dr. Peery was admitted to Shepherd Hill, a Board-approved treatment provider in Newark, Ohio. Following an assessment, Dr. Peery remained at Shepherd Hill for inpatient treatment, and he was discharged on March 5, 2004. (Ex. 5A at 59-60) With respect to the events that had led to this admission to Shepherd Hill, Dr. Peery later explained as follows:

I had just begun my second year as an orthopedic surgery resident and my wife of seven years decided to move out. This was very unexpected and surprising. I also had a four year old daughter at the time. I continued as a junior resident on call every third night and raising my daughter without any support. My entire family is located in Oklahoma and I had only recently moved to Columbus and did not know anyone well enough to help with my daughter.

At this point in time eating and sleeping were luxuries that I did not find often. I had been given Ultram as a medical student by a physician for a certain condition and remembered feeling drowsy when I took them. I had some of the medication remaining from several years ago and took some to get some sleep.<sup>3</sup> I continued this for a couple of months until the Director of Medical Education at Doctor's Hospital, Kirk Hilliard, D.O., had a meeting with me about my social situation. He was aware of the ongoing and pending divorce that my wife had filed for. He asked me if I was using any drugs or un-prescribed medication and I subsequently admitted to Ultram use.

The following day I had an evaluation at Shepherd Hill, in Newark, Ohio. Their recommendation was to have a three-day evaluation done to determine if I truly had substance abuse or dependency. At this point I voluntarily agreed to stay for treatment. I knew that my life needed some redirection from where it was heading. I stayed for approximately 8 weeks. \* \* \*

(Ex. 5A at 14)

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<sup>3</sup> The treatment notes at Shepherd Hill indicate that Dr. Peery initially used his wife's Ultram, beginning about six months after they separated. (Ex. 5B at 8)

6. Upon discharge, the staff at Shepherd filed a discharge summary stating, among other things, that Dr. Peery had remained abstinent as shown by random breathalyzer tests and urine screens. With regard to aftercare, he had agreed to attend 104 sessions consisting of aftercare sessions and Caduceus meetings. Dr. Peery was deemed to have an “excellent opportunity” for continued recovery provided he continued “to adhere to his recovery plan.” (Ex. 5B at 59-60)
7. During the aftercare program, the staff at Shepherd Hill discovered that, during his prior residential treatment, Dr. Peery had paid for another patient to obtain Viagra and had received in return a partial repayment of \$60 and four Viagra pills. The team noted that, “despite the fact that Viagra is not an addictive, mood-altering drug, the treatment team felt that the behavior exhibited was not consistent with recovery, and the fact that the details were conspiratorially kept quiet could damage the patient’s long-term recovery efforts.” Shepherd Hill recommended that Dr. Peery return to residential day treatment. (Ex. 5B at 7)
8. Dr. Peery was readmitted to Shepherd Hill on March 23, 2004, and stayed until discharge on April 2, 2004. (Ex. 5B at 3-4) The discharge summary for this second period of treatment includes the following:

At the time of his [second] admission, the patient’s \* \* \* emotional, behavioral, cognitive conditions and complications were high; the incident described shed light on his old behaviors. His resistance to treatment was low. His relapse potential was moderate to high, relative to his regressive behavior. His recovery environment was low to moderate; the patient is in early recovery and he lives alone with the responsibility to a young daughter.

At the time of his [second] discharge, his \* \* \* emotional, behavioral, cognitive conditions and complications were none. His treatment acceptance/resistance was none; the patient understands his relapse triggers. His recovery environment was none; he has consistent home and community support, as well as stable working conditions. While at Shepherd Hill, he completed assignments on how he set himself up to fail, how he had been selectively honest with his treatment providers, and a recovery plan.

Upon returning to treatment on March 23, 2004, the patient began to address how he became selectively honest by his silence and began to realize the dimensions of his behavior. Although his stay was brief he managed to accomplish the four goals of treatment. Through education his self-diagnosis was reinforced. He stated that through group discussion and being open with peers and fellow Alcoholics Anonymous members he became willing to own his behavior. He also stated that this solidified his self treatment and self responsibility, which in turn “solidified my recovery process.” The patient completed a new Recovery Plan. The patient will continue attending Aftercare and Caduceus so he can complete his one hundred four session commitment. The patient’s prognosis is very good at this time, provided he adheres to his recovery plan.

(Ex. 5B at 3-4)

### 2004 Advocacy Contract with OPHP

9. On June 15, 2004, Dr. Peery entered into an advocacy<sup>4</sup> agreement with the Ohio Physicians Health Program for a period of five years. In Paragraph 1 of the contract, Dr. Peery agreed that he would “abstain from all mood-altering drugs including alcohol, prescription drugs, over-the-counter preparations and foods having substances that could yield a positive toxicology test result (e.g., poppyseeds, rumcakes, cough syrups, cold medications, etc.) In addition, Dr. Peery promised to participate in the OPHP urine-monitoring program, under which he would submit to random weekly screens. He also agreed to attend three meetings of “AA/CA/NA/Caduceus” every week, regardless of whether he might be traveling, and to obtain written documentation of his attendance. He further agreed to terms regarding his use of prescription medication, and he agreed to comply with the aftercare terms established by Shepherd Hill. (Ex. 4-1)

10. Dr. Peery stated as follows regarding his contract with OPHP:

At the conclusion of my treatment I sought out the Ohio Physician Effectiveness Program and signed a five-year contract for monthly monitoring. I followed their recommendations throughout my time while under contract. I finally finished residency and then a fellowship and took a job in my home town in Oklahoma. I followed their exact requirements to transfer to Oklahoma and out of the contract.

(Ex. 5A at 14)

### Relocation to Oklahoma in 2007

11. Dr. Peery moved back to Oklahoma in 2007. (St. Ex. 5A at 15, 17) Dr. Peery stated that he had sent the following letter to his case manager at OPHP:

Dear Jason,

This letter is a follow up to our conversation concerning my departure to Oklahoma. My last day in Columbus, Ohio is Thursday July 26<sup>th</sup>. To remind you, I have no Ohio State Medical Board involvement and you told me to have the state board for Oklahoma submit you a letter stating that I disclosed all the information concerning my treatment/rehab. I spoke with Barbara at the OK board on July 9<sup>th</sup> and she stated that she has already submitted said paper. I will send you my final sheets including my urine screens, AA logs, and monitors report at the end of the month. This should

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<sup>4</sup> The Notice refers to this Agreement as an “aftercare Agreement.” However, under Rule 4731-16-10(A), a practitioner enters into an “aftercare contract” with the treatment provider, which, in this case, was Shepherd Hill. Further, the Board’s Compliance Supervisor and Enforcement Attorney identified the agreement with OPHP as an “advocacy contract,” and the agreement itself states that OPHP would have an “advocacy role.” (Exs. 4, 4-1, 5) The error in the Notice was *de minimus* in nature, having no adverse effect on providing adequate notice to Dr. Peery regarding the allegations against him.

bring closure to my contract with OPEP per our conversation. Thank you for your support over the last several years and let me know if I need to do anything else.

Sincerely,  
Dereck Peery, D.O.

(Ex. 5A at 17)

12. By letter dated July 5, 2007, the State of Oklahoma Board of Osteopathic Examiners [Oklahoma Board] notified OPHP that Dr. Peery's application for licensure had been approved, pending successful completion of his file. The Oklahoma Board advised that Dr. Peery had disclosed his participation in the OPHP monitoring program. Further, the Oklahoma Board provided copies of Dr. Peery's responses to pertinent questions on the Oklahoma application, and asked OPHP to contact it with any concerns or questions. (Ex. 5A at 23)
13. In a letter dated August 10, 2007, Stanley Sateren, M.D., the President and Medical Director of OPHP, together with R. Jason Jones, a case manager, communicated with Dr. Peery as follows:

This letter is to verify that your monitoring agreement with the Ohio Physicians Health Program has been terminated as of July 31, 2007, per your request.

We hope this has been a productive and beneficial experience for you. It has been our pleasure knowing and working with you.

We wish you continued success in your recovery and medical practice.

(Ex. 5A at 18)

### **September 2007 – Report of Positive Urine Screens**

14. A laboratory report dated September 11, 2007, states that, on July 20, 2007, Dr. Peery had submitted a urine specimen that tested positive for the presence of Tramadol.<sup>5</sup> The positive result was shown by enzyme-linked immunosorbent assay or ELISA, at a screening cut-off level of 200 ng/ml. The result was confirmed by gas chromatography/mass spectrometry [GC/MS], which showed a positive result at a detection cut-off level of 300 ng/ml. (Ex. 4-1)  
  
In addition, in a separate report dated September 11, 2007, the laboratory set forth the test results for another urine specimen given by Dr. Peery on July 23, 2007. This specimen had also tested positive for Tramadol, and the result was again confirmed by GC/MS. (Exs. 4-1, 5)
15. On September 17, 2007, the Board's Compliance Supervisor, Danielle Bickers, received a telephone call from Dr. Sateren of OPHP. Dr. Sateren advised that Dr. Peery had submitted urine specimens on July 20 and July 23, 2007, and that both specimens had tested positive for

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<sup>5</sup> The brand name of Tramadol (tramadol hydrochloride) is Ultram, the drug that Dr. Peery had self-prescribed in 2004.

Tramadol. That same day, Dr. Sateren transmitted to the Board copies of the laboratory results and a copy of the OPHP's advocacy contract with Dr. Peery. (Exs. 4, 4-1, 5)

16. Ms. Bickers found that Dr. Peery had not been the subject of a prior Board action, and she referred the matter for investigation. (Exs. 4, 5)

### **2008 - Interrogatory Answers**

17. On January 24, 2008, an Enforcement Attorney for the Board sent Dr. Peery a letter with a set of interrogatories. The Enforcement Attorney instructed Dr. Peery, among other things, that he was required under R.C. 4731.281(B) to give written notice to the Board of any change in his principal practice address or residence address within 30 days of the change, and that no updated contact information had been provided to the Board to date. (Exs. 5, 5A)
18. On February 20, 2008, the Board received Dr. Peery's responses to the interrogatories. In response to Question 2, which asked whether he had ever been diagnosed and/or treated at any facility for alcohol and/or chemical dependency or abuse, Dr. Peery responded "Yes." When asked to provide the dates and places for each occasion on which he had been treated, Dr. Peery listed "Jan. 2004 thru March 2004" at Shepherd Hill. He attached a letter explaining the circumstances surrounding his admission to Shepherd Hill (quoted above at Paragraph 5). (Exs. 5, 5A at 6, 14)
19. Question 9 of these interrogatories asked Dr. Peery whether he had ever entered into any type of monitoring agreement related to chemical abuse, chemical dependency, mental health, and/or mental illness, with any physicians' health program, physician impairment committee, or any similar body, association or entity. In response, Dr. Peery answered "Yes," and disclosed the agreement he had entered with OPHP in June 2004. (Ex. 5A at 9-10)
20. Dr. Peery also included a document titled "Communication." In it, Dr. Peery stated that he had not been made aware of any problems with the July 2007 urine screens until he received the Board's letter in January 2008:

These two urine screens were in July of 2007. I was never made aware of any issues about this until I received the packet from the Ohio State Medical Board that was dated January 24, 2008. I spoke with Stan Sateren M.D., and he states that they could not contact me. I would like to point out that the last letter from [OPHP] that I attached is dated August 10, 2007, and indicates all is well. I received this while living in Oklahoma. Also, I kept my cellular phone that I had in Columbus current for two and a half months after moving to Oklahoma so that I could be accessible for any issues or if someone did not have my new contact information. Finally, I still have the same email address that I had while living in Columbus that Jason Jones had emailed me several correspondence to over the last few years.

(Ex. 5A at 22)

21. With his interrogatory responses, Dr. Peery provided, among other things, a copy of the August 2007 letter from OPHP (quoted above at paragraph 13), regarding the termination of his advocacy contract. He also provided a copy of the letter from the Oklahoma Board. (Ex. 5A)

### **PROPOSED FINDINGS**

1. From January 21, 2004, to March 5, 2004, Dereck Aaron Peery, D.O., participated in inpatient treatment at Shepherd Hill, a Board-approved treatment provider, Dr. Peery was readmitted to Shepherd Hill on March 23, 2004, and continued residential treatment until April 2, 2004.
2. Dr. Peery entered into an advocacy agreement with the Ohio Physicians Effectiveness Program, which is now known as the Ohio Physicians Health Program [OPHP]. Paragraph 1 of this agreement required that Dr. Peery “will abstain from all mood-altering drugs including alcohol, prescription drugs, over the counter preparations and foods having substances that could yield a positive toxicology test result.” The agreement also required Dr. Peery to submit to random drug and alcohol screening. Dr. Peery remained subject to this agreement in July 2007.
3. On July 20, 2007, and July 23, 2007, Dr. Peery submitted urine specimens for drug and alcohol screening, pursuant to the requirements of his advocacy agreement. Both specimens tested positive for Tramadol (Ultram), and both of these test results were confirmed by GC/MS (gas chromatography/mass spectrometry).
4. Dr. Peery no longer resides in Ohio; he moved to Oklahoma during the summer of 2007.
5. The evidence as set forth above in Proposed Findings 1 and 2 establishes Dr. Peery’s “(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 language is used in R.C. 4731.22(B)(26).

Ohio Administrative Code [Rule] 4731-16-02(B)(3) provides that, if the Board has reliable, substantial, and probative evidence demonstrating impairment, the Board shall initiate proceedings to suspend the license or deny the applicant. Further, pursuant to Rule 4731-16-02(B)(3)(a), an individual’s relapse constitutes independent proof of impairment.

6. The Board issued a notice of opportunity for hearing to Dr. Peery, which was duly served on him, and he did not request a hearing within 30 days. The Board may consider the evidence and determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate his certificate to practice osteopathic medicine or to reprimand him or place him on probation.

\* \* \* \* \*

Following more than 28 days of inpatient treatment in 2004, Dr. Perry relapsed in 2007. Although he cooperated in a Board investigation in 2008, he did not request a hearing.

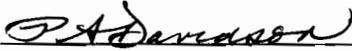
At present, Dr. Peery lives and works in Oklahoma. The record includes no indication that he intends to seek renewal of his Ohio certificate, which recently expired. Likewise, there is no evidence that he may want to return to practice in Ohio at some point in the future. In similar situations, where the respondent has not requested a hearing, and where the Board does not have information that the impaired individual is willing to submit to Board-ordered treatment and monitoring in order to obtain or retain his Ohio certificate, the Board has entered an order of non-permanent revocation. This type of revocation recognizes the potential for future recovery but places no current burden on the Board to supervise and monitor an individual who has not signaled a willingness to comply at present. *E.g., Matter of Lewis* (Dec. 2005); *Matter of Baird* (Feb. 2006); *Matter of Humes* (May 2006); *Matter of Petras* (Apr. 2008).

#### PROPOSED ORDER

It is ORDERED that:

The certificate of Dereck Aaron Peery, D.O., to practice osteopathic medicine and surgery in the State of Ohio is hereby REVOKED.

This Order shall become effective immediately upon the mailing of the 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

April 9, 2008

Case number: 08-CRF- *046*

Dereck Aaron Peery, D.O.  
179 Yorktown Road  
Ardmore, OK 73401

Dear Doctor Peery:

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 osteopathic medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about July 20, 2007, and July 23, 2007, you submitted urine specimens for random drug and alcohol screening pursuant to the requirements of your aftercare Agreement with Ohio Physicians Effectiveness Program, Inc. Paragraph 1 of said Agreement requires that you "will abstain from all mood-altering drugs including alcohol, prescription drugs, over the counter preparations and foods having substances that could yield a positive toxicology test result."

Despite this provision, the urine specimen that you submitted on or about July 20, 2007, was reported to the Board on or about September 17, 2007, as positive and GC/MS confirmed for Tramadol. Additionally, the urine specimen that you submitted on or about July 23, 2007, was also reported to the Board on or about September 17, 2007, as positive and GC/MS confirmed for Tramadol.

- (2) Further, on or about February 20, 2008, you submitted your responses to The State Medical Board of Ohio's First Set of Interrogatories Directed to Dereck Aaron Peery, D.O., [Interrogatories], wherein you attested that you participated in inpatient treatment at Shepherd Hill, a Board-approved treatment provider, from January 2004 through March 2004. Your medical records from Shepherd Hill indicate your exact dates of treatment to be January 21, 2004, to March 5, 2004. You then returned to Shepherd Hill on March 23, 2004, and continued inpatient treatment until April 2, 2004.
- (3) Documentation attached to your responses to the Interrogatories indicates that you are no longer in Ohio and that you have relocated to Oklahoma.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) and (2) above, individually and/or collectively, constitute "[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or

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other substances that impair ability to practice,” as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.

Further, Rule 4731-16-02(B)(3), Ohio Administrative Code, provides that if the Board has reliable, substantial and probative evidence demonstrating impairment, the Board shall initiate proceedings to suspend the license or deny the applicant. Further, pursuant to Rule 4731-16-02(B)(3)(a), Ohio Administrative Code, an individual’s relapse constitutes independent proof of impairment.

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

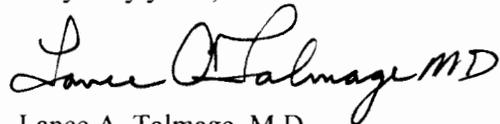
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at 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 osteopathic medicine and surgery or to reprimand you or place you on probation.

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.  
Secretary

LAT/AMM/flb  
Enclosures

CERTIFIED MAIL #91 7108 2133 3934 3686 8171  
RETURN RECEIPT REQUESTED