



State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

February 14, 2001

Timothy L. Casten, P.A.
571 Sycamore Drive
Euclid, OH 44132

Dear Mr. Casten:

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 February 14, 2001.

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

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, MD
Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

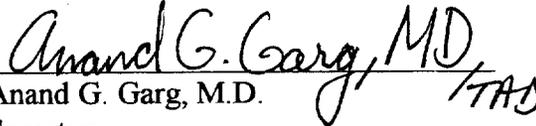
CERTIFIED MAIL RECEIPT NO. 7000 0600 0022 4402 9307
RETURN RECEIPT REQUESTED

cc: Charles E. Smith, Esq.
CERTIFIED MAIL RECEIPT NO. 7000 0600 0022 4402 9291
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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 February 14, 2001, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of Timothy L. Casten, P.A., 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)

FEBRUARY 14, 2001
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

TIMOTHY L. CASTEN, P.A.

*

FINDINGS, ORDER AND JOURNAL ENTRY

By letter dated December 13, 2000, notice was given to Timothy L. Casten, P.A., that the State Medical Board intended to consider disciplinary action regarding his certificate of registration as a physician assistant 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, to the address of record of Mr. Casten, that being 571 Sycamore Drive, Euclid, OH 44132.

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

WHEREFORE, for the reasons outlined in the December 13, 2000 letter of notice, which is attached hereto and incorporated herein, it is hereby ORDERED that the certificate of registration of Timothy L. Casten, P.A., to practice as a physician assistant in the State of Ohio be PERMANENTLY REVOKED.

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 FEBRUARY 2001, and the original thereof shall be kept with said Journal.

(SEAL)

Anand G. Garg, M.D.
Anand G. Garg, M.D.
Secretary

FEBRUARY 14, 2001
Date

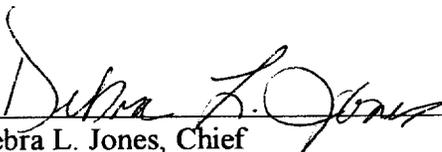
AFFIDAVIT

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

- 1) That I am employed by the State Medical Board of Ohio (hereinafter, "The Board")
- 2) That I serve the Board in the position of Chief, Continuing Medical Education, Records, and Renewal;
- 3) That 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) That I have this day carefully examined the records of the Board pertaining to Timothy L. Casten, P.A.
- 5) That based on such examination, I have found the last known address of record of Timothy L. Casten, P.A. to be:

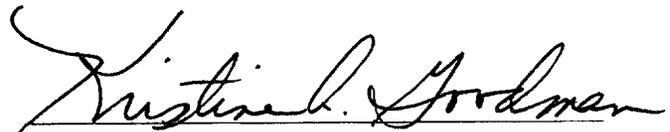
571 Sycamore Drive
Euclid, OH 44132

- 6) Further, Affiant Sayeth Naught.



Debra L. Jones, Chief
Continuing Medical Education,
Records and Renewal

Sworn to and signed before me, Kristine A. Goodman, Notary Public, this 25rd day of January, 2001.



Notary Public



KRISTINE A. GOODMAN
Notary Public, State of Ohio
My Commission Expires
11/9/2002



State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

December 13, 2000

Timothy L. Casten, P.A.
571 Sycamore Drive
Euclid, Ohio 44132

Dear Mr. Casten:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, permanently revoke, or suspend your certificate of registration as a physician assistant, refuse to issue or reinstate your certificate, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) You entered into a supervision agreement with William A. Washington, M.D., and Pureza D. Jacaban, M.D., which became effective on February 22, 1999. Pursuant to this supervision agreement, you agreed that you would practice in accordance with Linden Medical Center/Family Health Center's Physician Assistant Utilization Plan ("Utilization Plan"), as approved by the State Medical Board of Ohio. In part, this plan permitted you to "[c]arry out or relay the supervising physician's orders for medication, to the extent permitted under laws pertaining to drugs."
- (2) You called in the below-mentioned prescriptions for dangerous drugs for yourself without receiving specific authorization from your supervising physician or any other physician. However, when you called the prescriptions in to the Hilltop Pharmacy, you indicated that you were authorized by a physician to do so.

<u>DATE</u>	<u>DRUG</u>	<u>QUANTITY</u>
10/7/99	Butalbital/Acet/Caffeine	30
11/5/99	Butalbital/Acet/Caffeine	10
12/21/99	Butalbital/Acet/Caffeine	10
1/7/00	Butalbital/Acet/Caffeine	20
1/18/00	Butalbital/Acet/Caffeine	30
2/3/00	Butalbital/Acet/Caffeine	10
2/8/00	Butalbital/Acet/Caffeine	3
2/10/00	Butalbital/Acet/Caffeine	30
2/17/00	Butalbital/Acet/Caffeine	15

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- (3) Your certificate of registration as a physician assistant expired on January 31, 2000. However, you continued practicing as a physician assistant at Linden Medical Center/Family Health Center until on or about February 29, 2000.

Your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute “[f]ailure to practice in accordance with the conditions under which the supervising physician’s supervision agreement with the physician assistant was approved, including the requirement that when practicing under a particular supervising physician, the physician assistant must practice only according to the standard or supplemental utilization plan the board approved for that physician,” as that clause is used in Section 4730.25(B)(1), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute “[f]ailure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;” as that clause is used in Section 4730.25(B)(2), Ohio Revised Code, to wit: Section 4730.02(F), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute “[c]ommission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4730.25(B)(15), Ohio Revised Code, to wit: Section 4730.02(F), Ohio Revised Code. Pursuant to Section 4730.99, Ohio Revised Code, violation of Section 4730.02, Ohio Revised Code, constitutes a misdemeanor offense.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute “[f]ailure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board” as that clause is used in Section 4730.25(B)(2), Ohio Revised Code, to wit: Rule 4731-4-03(C), Ohio Administrative Code, as in effect prior to September 1, 2000.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute “[m]aking a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for patients, in relation to the practice of medicine as it pertains to physician assistants, or in securing or attempting to secure a certificate of registration to practice as a physician assistant or approval of a supervision agreement,” as that clause is used in Section 4730.25(B)(8), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4730.25(B)(12), Ohio Revised Code, to wit: Section 2925.22, Ohio Revised Code, Deception to obtain a dangerous drug.

Further, your acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively, constitute “[f]ailure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;” as that clause is used in Section 4730.25(B)(2), Ohio Revised Code, to wit: Section 4730.02(A), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively, constitute “[c]ommission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4730.25(B)(15), Ohio Revised Code, to wit: Section 4730.02(F), Ohio Revised Code. Pursuant to Section 4730.99, Ohio Revised Code, violation of Section 4730.02, Ohio Revised Code, constitutes a misdemeanor offense.

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 (30) 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 (30) 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 or suspend your certificate of registration as a physician assistant, refuse to issue or reinstate your certificate or to reprimand or place you on probation.

Please note that, whether or not you request a hearing, Section 4730.25(L), Ohio Revised Code, effective March 9, 1999, provides that “[w]hen the board refuses to grant a certificate of registration as a physician assistant to an applicant, revokes an individual’s certificate of registration, refuses to issue a certificate of registration, or refuses to reinstate

an individual's certificate of registration, 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 of registration as a physician assistant 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,



Anand G. Garg, M.D.
Secretary

AGG/krt
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5140 3914
RETURN RECEIPT REQUESTED

cc: Charles E. Smith, Esq.

CERTIFIED MAIL # 7000 0600 0024 5140 3907
RETURN RECEIPT REQUESTED



State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

November 8, 2000

Timothy L. Casten, P.A.
571 Sycamore Drive
Euclid, OH 44132-2134

Dear Mr. Casten:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Daniel Roberts, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on November 8, 2000, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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

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 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

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

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RETURN RECEIPT REQUESTED

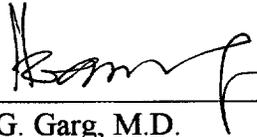
cc: Charles E. Smith, Esq.
CERTIFIED MAIL RECEIPT NO. 7000 0600 0022 4402 8836
RETURN RECEIPT REQUESTED

Mailed 12-8-00

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Daniel Roberts, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on November 8, 2000, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Timothy L. Casten, P.A., 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.



Anand G. Garg, M.D.
Secretary

(SEAL)

NOVEMBER 8, 2000

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

TIMOTHY L. CASTEN, P.A.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on November 8, 2000.

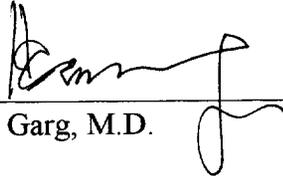
Upon the Report and Recommendation of Daniel Roberts, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the modification, approval and confirmation by vote 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 certificate of registration of Timothy L. Casten, P.A., to practice as a physician assistant in the State of Ohio shall be PERMANENTLY REVOKED.

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

(SEAL)


Anand G. Garg, M.D.
Secretary

NOVEMBER 8, 2000
Date

**REPORT AND RECOMMENDATION
IN THE MATTER OF TIMOTHY L. CASTEN, P.A.**

The Matter of Timothy L. Casten, P.A., was heard by Daniel Roberts, Attorney Hearing Examiner for the State Medical Board of Ohio, on September 7, 2000.

INTRODUCTION

I. Basis for Hearing

A. By letter dated May 10, 2000, the State Medical Board of Ohio [Board] notified Timothy L. Casten, P.A., that, pursuant to Section 3719.121(c), Ohio Revised Code, his certificate of registration as a physician assistant had been immediately suspended. The Board further notified Mr. Casten that it had proposed to determine whether to take disciplinary action against his certificate. The Board based its proposed action on the following allegations:

1. Mr. Casten entered into a supervision agreement with Arnold O. Allenius, D.O., and Karen A. Clemency, M.D., which became effective on April 7, 1997. Pursuant to this supervision agreement, Mr. Casten agreed that he would practice in accordance with Dr. Allenius' and Dr. Clemency's Physician Assistant Utilization Plan, as approved by the Board. In part, this plan permitted Mr. Casten to "[c]arry out or relay the supervising physician's orders for medication, to the extent permitted under laws pertaining to drugs."
2. Contrary to the requirements of the Utilization Plan, Mr. Casten prescribed the following dangerous drugs and controlled substances to Patient 1 without receiving specific authorization from his supervising physician or any other physician:

<u>DATE</u>	<u>DRUG</u>	<u>QUANTITY</u>
1/29/97	Fioricet	20
8/10/97	Phrenilin	15
11/8/97	Phrenilin	15
11/28/97	Phrenilin	15
12/8/97	Adipex P	14
12/16/97	Phrenilin Forte	15

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12/22/97	Adipex P	14
1/5/98	Adipex P	14
1/9/98	Fioricet	20
1/18/98	Adipex P	14
2/5/98	Adipex P	14
2/19/98	Adipex P	14

3. Contrary to the requirements of the Utilization Plan, Mr. Casten prescribed Phrenilin, a dangerous drug, for himself without receiving specific authorization from his supervising physician or any other physician.
4. On or about April 12, 2000, in the Court of Common Pleas of Franklin County, Ohio, Mr. Casten pled guilty to one felony count of Illegal Processing of Drug Documents, in violation of Section 2925.23, Ohio Revised Code.

The Board alleged that Mr. Casten's acts, conduct, and/or omissions as alleged in paragraphs 2 and 3 above, individually and/or collectively, constitute "[f]ailure to practice in accordance with the conditions under which the supervising physician's supervision agreement with the physician assistant was approved, including the requirement that when practicing under a particular supervising physician, the physician assistant must practice only according to the standard or supplemental utilization plan the board approved for that physician," as that clause is used in Section 4730.25(B)(1), Ohio Revised Code."

The Board further alleged that Mr. Casten's acts, conduct, and/or omissions as alleged in paragraphs 2 and 3 above, individually and/or collectively, constitute "[f]ailure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board," as that clause is used in Section 4730.25(B)(2), Ohio Revised Code, to wit: Section 4730.02(F), Ohio Revised Code."

The Board also alleged that Mr. Casten's acts, conduct, and/or omissions as alleged in paragraphs 2 and 3 above, individually and/or collectively, constitute "[c]ommission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice," as that clause is used in Section 4730.25(B)(15), Ohio Revised Code, as in effect prior to March 9, 1999, to wit: Section 4730.02(F), Ohio Revised Code. Pursuant to Section 4730.99, Ohio Revised Code, violation of Section 4730.02, Ohio Revised Code, constitutes a misdemeanor offense."

STATE MEDICAL BOARD

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The Board alleged that Mr. Casten's acts, conduct, and/or omissions as alleged in paragraphs 2 and 3 above, individually and/or collectively, constitute "[f]ailure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board' as that clause is used in Section 4730.25(B)(2), Ohio Revised Code, to wit: Rule 4731-4-03(C), Ohio Administrative Code."

The Board further alleged that Mr. Casten's acts, conduct, and/or omissions as alleged in paragraph 2 above, individually and/or collectively, constitute "[c]ommission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed' as that clause is used in Section 4730.25(B)(12), Ohio Revised Code, to wit: Section 2925.23, Ohio Revised Code, Illegal processing of drug documents."

The Board also alleged that Mr. Casten's plea of guilty as alleged in paragraph 4 above constitutes "[a] plea of guilty to, or a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction for, a felony,' as that clause is used in Section 4730.25(B)(11), Ohio Revised Code."

The Board alleged that Mr. Casten's plea of guilty as alleged in paragraph 4 above constitutes "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking drugs,' as that clause is used in Section 4730.25(B)(17), Ohio Revised Code."

Accordingly, the Board advised Mr. Casten of his right to request a hearing in this matter. (State's Exhibits 1A and 1B).

- B. On June 6, 2000, Charles E. Smith, Esq., filed a written hearing request on behalf of Mr. Casten. (State's Exhibit 1C).

II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Rebecca J. Albers, Assistant Attorney General.
- B. On behalf of the Respondent: Charles E. Smith, Esq.

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EVIDENCE EXAMINED

I. Testimony Heard

A. Presented by the State:

1. Christopher K. Reed
2. Karen Clemency, M.D.

B. Presented by the Respondent:

Timothy L. Casten, P.A.

II. Exhibits Examined

A. Presented by the State:

1. State's Exhibits 1A-1O: Procedural exhibits.
2. State's Exhibit 2: Patient Key. [Sealed to protect patient confidentiality]
3. State's Exhibit 3: Certified copy of Judgment Entry filed in the Court of Common Pleas, Franklin County Ohio, Criminal Division, in *State of Ohio vs. Timothy Casten*, 99CR-04-2120 [*State v. Casten*]. [Note: Portions of this exhibit were redacted by the Attorney Hearing Examiner, post hearing, pursuant to an agreement of the parties.]
4. State's Exhibit 4: Certified copies of the Physician Assistant Utilization Plan and Supervision Agreement between Timothy L. Casten, Arnold O. Allenius, D.O. and Karen Clemency, M.D.
5. State's Exhibit 5: Copy of June 10, 1998, prescription in the name of Mr. Casten. [Sealed to protect patient confidentiality.]
6. State's Exhibits 6A-6L: Copies of prescriptions in the name of Patient 1. [Sealed to protect patient confidentiality.]

B. Presented by the Respondent:

Respondent's Exhibit A: Copy of August 10, 2000, Lake Hospital System Radiology Report for Mr. Casten. [Sealed to protect patient confidentiality.]

PROCEDURAL MATTERS

1. After consulting with his counsel, Mr. Casten elected to waive any claim to patient confidentiality for himself for those matters at issue in this action. He stated that he is the individual described in the record as Patient 2. (Transcript at 30-31, 38-40)
2. On September 12, 2000, Counsel for the State filed a motion to re-open the record and admit two additional exhibits consisting of patient records for Patient 1 and Mr. Casten. Following objection by the Respondent and an October 2, 2000, telephone conference, The Hearing Examiner denied the State's motion. Counsel for the State elected not to proffer the exhibits.

SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony, even if not specifically mentioned, were thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

1. Christopher K. Reed testified on behalf of the State of Ohio. He is a Compliance Agent with the Ohio State Board of Pharmacy [Pharmacy Board]. He has been employed in that capacity for thirteen years. Agent Reed testified that his duties include inspecting sites where dangerous drugs are manufactured, possessed, or sold. He also investigates complaints pertaining to violations of drug laws. (Transcript [Tr.] at 17-18)

Agent Reed testified that he had been contacted in July 1998 by a representative of the Dennison Avenue Medical Center [Dennison Avenue] about an employee telephoning unauthorized prescriptions for Darvocet to a local pharmacy. This employee, identified as Patient 1, was interviewed by Agent Reed in October 1998. Patient 1 alleged to Agent Reed that Mr. Casten has written several prescriptions for controlled substances and dangerous drugs which had been presented to the pharmacy by Patient 1. Patient 1 further alleged that he had obtained these drugs from the pharmacy and given them to Mr. Casten. He alleged that, in exchange for this service, Mr. Casten had telephoned in

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prescriptions for drugs Patient 1 wanted. Agent Reed testified that his investigation did not reveal any evidence to corroborate Patient 1's allegations against Mr. Casten. However, in the course of his investigation, Agent Reed discovered violations by Mr. Casten which subsequently led to criminal charges. (Tr. 18-21, 24-27, 32-35)

Agent Reed testified that the he next interviewed Karen Clemency, M.D., a physician at Dennison Avenue. Agent Reed explained that he had shown Dr. Clemency several prescriptions for Patient 1 for the drugs Adipex-P, Fioricet, and Phrenilin. Dr. Clemency told Agent Reed that all of the prescriptions he showed her contained her original signature. However, she denied having written any of the other information on the prescriptions. Dr. Clemency compared the prescriptions presented by Agent Reed to the medical records for Mr. Casten and Patient 1. Dr. Clemency informed Agent Reed that there appeared to be pages missing from Patient 1's chart. (Tr. 21-23, 35-36; State's Exhibits [St. Exs.] 5, 6A-6L)

After interviewing Dr. Clemency, Agent Reed interviewed Mr. Casten. Mr. Casten told Agent Reed that he had written the body of each of the prescriptions at issue in this hearing. Mr. Casten explained to Agent Reed that it had been standard practice for Dr. Clemency to leave pre-signed prescription blanks for his use in treating patients. Mr. Casten denied ever obtaining drugs from Patient 1 as Patient 1 had alleged. (Tr. 23-24; St. Exs. 5, 6A-6L)

Agent Reed presented the results of his investigation to the Franklin County Prosecuting Attorney. This led to the indictment of Patient 1, Mr. Casten and Patient 1's roommate. Agent Reed testified that it was his understanding that Mr. Casten had plead guilty to one count of illegal processing of drug documents. Patient 1 entered pleas of guilty to felonies, and was granted treatment in lieu of conviction. (Tr. 24-25, 27-30, 81-82; St. Exs. 3 and 5)

2. At hearing, Dr. Clemency testified that she had attended Vanderbilt University Medical School and had been a resident at Riverside Methodist Hospital. She has been employed by Arnold Allenius, D.O. since February 1991. However, she did not act as a supervising physician for a physician assistant until 1996 or 1997. She noted that she practices at Dennison Avenue. (40-42; St. Ex. 4)

Mr. Casten entered into a supervision agreement with Dr. Allenius and Dr. Clemency which became effective on April 7, 1997. Pursuant to this supervision agreement, he agreed that he would practice in accordance with Dr. Allenius' and Dr. Clemency's Physician Assistant Utilization Plan, as approved by the Board. In part, this plan permitted Mr. Casten to "[c]arry out or relay the supervising physician's orders for

medication, to the extent permitted under laws pertaining to drugs.” Dr. Clemency testified that she had believed that she had been familiar with the terms of the Utilization Plan. She stated that she had been familiar with what a physician assistant was permitted to do under Ohio law. (Tr. 42-44; St. Ex. 4)

Dr. Clemency testified that the Utilization Plan required Mr. Casten to make entries in patient charts as he worked and that she would review those charts within twenty-four hours. Dr. Clemency noted that Mr. Casten was not permitted to prescribe medication. She explained that Mr. Casten was authorized to carry out and relay orders. She further explained that Mr. Casten would see a patient, examine them, evaluate them, assess the treatment plan and determine whether medication should be prescribed. At hearing Dr. Clemency was asked if, after carrying out these tasks, Mr. Casten would come to her and ask whether or not the patient needs medication and if she would then authorize it. She replied, “Most of the time things were done verbally. We had a pharmacy in the basement that would fill prescriptions, so I would review the chart within twenty four hours if it was a continuation of a current medication. If there was any question, I was there. [Mr. Casten] could contact me.” (Tr. 44-45; St. Ex. 4)

Dr. Clemency testified that, prior to her becoming a supervising physician, it had been office practice to use pre-signed prescriptions. She explained that Dr. Allenius would allow the physician assistant to complete a pre-signed prescription blank based on the history of prescriptions, treatment plan, and examination by the physician assistant. She explained that the prescription would become “official” when the medical record was countersigned by the supervising physician, after the fact. (Tr. 52-55, 61-62)

At hearing, Dr. Clemency admitted that she had pre-signed otherwise blank prescriptions and left them in the office when she left early on Thursday afternoons. She explained that it had been her understanding that Mr. Casten would use these pre-signed blanks “the same way as when I was present.” (Tr. 45-46)

Dr. Clemency testified that her office received a telephone call from a pharmacist which led them to determine that, on several occasions, Patient 1, an employee of the practice, had telephoned in prescriptions for his roommate, without authorization from a physician. When confronted, Patient 1 admitted that he had telephoned in prescriptions and expressed the belief that he had a drug problem. Dr. Clemency stated at hearing that Patient 1 did not indicate to her that anyone else was involved in his illegal activities. (Tr. 46-47, 54-55)

At hearing, Dr. Clemency testified that each of the prescription forms at issue contains her signature. However, Dr. Clemency testified that the other writing on each form is not hers

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and appears to be that of Mr. Casten. Dr. Clemency stated that she had reviewed the medical records of the patients these prescriptions were written for and determined that she had not authorized any of these prescriptions. She explained that this conclusion was based on the fact that the medical records did not contain documentation that these prescriptions had been issued. Had they been documented and authorized she would have countersigned the entries in the medical records within twenty four hours. (Tr. 46-52, 56-59, 62-63; St. Exs. 4, 5, and 6A-6L)

Dr. Clemency stated that Patient 1's file was disorganized and out of order. She also stated that she could not say if pages were missing from the file. However, she conceded that she may have told Agent Reed that pages were missing from the file. (Tr. 58-61, 63)

3. Mr. Casten testified that he had graduated from Kent State University with a Bachelor of Science degree and from a four year physician assistant training program at Lake Erie College where he received a Bachelor of Arts degree. He further testified that he is board certified as a physician assistant in primary care. Mr. Casten stated that he had been employed by Allenius and Associates for a period of ten years during which he worked at the Cleveland Avenue Clinic [Cleveland Avenue] or Dennison Avenue. (Tr. 71-72)

Mr. Casten testified that he is familiar with the statutes and rules governing the practice of physician assistants in Ohio. He affirmed that he is aware that physician assistants are not permitted to prescribe medications. Nevertheless, at hearing, Mr. Casten described the standard procedure for prescribing drugs at Dennison Avenue and Cleveland Avenue. He stated that he would see established patients including fellow employees. He explained that he had been authorized to use pre-signed prescription blanks with established patients. He further explained that he had never signed the physician's name but would add all of the other necessary information to a form pre-signed by the physician. (Tr. 73-75, 84, 88)

Mr. Casten testified that pre-signed prescriptions are "something that we know is a no, no, but every practice I've been in they've always done it that way. All the doctors that I worked with at Cleveland Avenue. I don't know if it was Dr. Allenius' policy to say 'pre-sign the prescriptions.' It speeds up patient flow. I've always worked with them" He continued, "I've never used them for any malicious intent." (Tr. 74)

4. Mr. Casten testified Patient 1 had been employed at Cleveland Avenue when Mr. Casten joined the staff as a physician assistant and supervisor. Mr. Casten had been Patient 1's supervisor. Mr. Casten elaborated that Patient 1 had been difficult to work with and lazy. Subsequently, Patient 1 left his employment at Cleveland Avenue and Mr. Casten relocated to Dennison Avenue. In 1995, Patient 1 applied for a position at Dennison Avenue. Initially, he was not hired. However, within a year, Dr. Allenius hired Patient 1

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over the objections of Mr. Casten and the nursing supervisor. Mr. Casten stated that he and Patient 1 had not had a good working relationship. (Tr. 72-73)

Mr. Casten testified that he had seen Patient 1 as a patient. At hearing he noted that Patient 1 would seek to be seen by Mr. Casten on Mondays when Mr. Casten was busiest. Mr. Casten also noted that Patient 1 had access to medical records kept at Dennison Avenue. He further noted that Patient 1's chart had not been kept with those of other patients. He explained that he did not know where Patient 1's chart was kept. He stated that when he asked Patient 1 why his chart was not kept with the others, Patient 1 replied that it was kept separate so no one else would know what his business was. (Tr. 75-76)

Mr. Casten also testified that he does not distinctly remember examining Patient 1 on the specific dates reflected on prescriptions. However, he explained that he would not have written the prescriptions unless on each date noted on a prescription he had examined Patient 1, documented a prescription in the medical record, and then completed a pre-signed prescription blank in accordance with the standard practice at Dennison Avenue. Mr. Casten elaborated that all of the prescriptions he had written for Patient 1 were for medications Patient 1 had previously received from Dr. Clemency. Mr. Casten noted that, with the exception of Patient 1 handling his own medical records, Mr. Casten's handling of prescriptions for Patient 1 had been the same as with thousands of other patients he had seen over the years. (Tr. 76-78, 84, 87; St. Exs. 4 and 6A-6L)

Mr. Casten wrote prescriptions for Patient 1, including the following:

<u>DATE</u>	<u>DRUG</u>	<u>QUANTITY</u>
1/29/97	Fioricet	20
8/10/97	Phrenilin	15
11/8/97	Phrenilin	15
11/28/97	Phrenilin	15
12/8/97	Adipex P	14
12/16/97	Phrenilin Forte	15
12/22/97	Adipex P	14
1/5/98	Adipex P	14
1/9/98	Fioricet	20
1/18/98	Adipex P	14
2/5/98	Adipex P	14
2/19/98	Adipex P	14

(Tr. 76-78, 84, 87; St. Exs. 4 and 6A-6L)

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Mr. Casten testified that there had been occasions on which he had telephoned in prescriptions for Patient 1. He stated that on every occasion the prescription had been properly charted and authorized according to the standard practice at Dennison Avenue. (Tr. 82-83)

Mr. Casten testified that it was his belief that Patient 1 had destroyed portions of Patient 1's medical record. Mr. Casten further testified that he believes that Patient 1 removed the entries pertaining to the prescriptions for Patient 1 at issue in this hearing. However, he also testified that he does not know for certain that this occurred. He noted that he has not had the opportunity to review Patient 1's chart. (Tr. 85, 88)

Mr. Casten testified that Patient 1 could have had access to the medical records at Dennison Avenue even after he was no longer employed there because he had had a key to the building. Mr. Casten conceded that he did not know if Patient 1 had turned in this key when he left Dennison Avenue. (Tr. 77-78)

Mr. Casten testified that Patient 1's allegations that he had been involved in Patient 1's scheme to obtain drugs illegally in exchange for a portion of the drugs were false. He explained that, had he wanted to obtain drugs illegally for his own use, he could have done so without involving Patient 1. He further explained that it would have been illogical for him to be involved in such a scheme with Patient 1 because he disliked and distrusted Patient 1. Mr. Casten stated that he knows others who have worked with Patient 1. He alleged at hearing that Patient 1 has a reputation as a liar among co-workers. (Tr. 82-83)

5. Mr. Casten testified that Mr. Casten had been in an automobile accident in 1991 and suffered a fractured lumbar L4, transverse process of L4. He further testified that, as a result of this condition he is scheduled for surgery at the Cleveland Clinic Foundation in November of 2000. Mr. Casten also testified that he had been a patient at Dennison Avenue and had been treated by Dr. Clemency for his back injury. Mr. Casten stated that Dr. Clemency had prescribed butalbital, naproxen, and other anti-inflammatory medications for him. (Tr. 78-80; Respondent's Exhibit A)

On June 10, 1998, Mr. Casten prescribed Phrenilin to himself without receiving specific authorization from his supervising physician or any other physician. Mr. Casten testified that this prescription had been written on a day that Dr. Clemency had not been in the office. He explained that Phrenilin was a drug that Dr. Clemency had previously prescribed for him. He testified that he believes that he had been authorized to write this prescription for himself. Mr. Casten also testified that Phrenilin is not a controlled substance and that he has never taken a controlled substance for his back. (Tr. 80-81, 89-90; St. Exs. 4 and 5)

On April 12, 2000, in the Court of Common Pleas of Franklin County, Ohio, Mr. Casten pled guilty to one felony count of Illegal Processing of Drug Documents, in violation of Section 2925.23, Ohio Revised Code. (St. Ex. 4)

Mr. Casten further testified that the June 10, 1998, Phrenilin prescription had been authorized by Dr. Clemency but that he can not be absolutely sure it was documented in his chart. Mr. Casten testified that if, in fact, the June 10, 1998, prescription is not documented in his medical records, it is the result of an oversight on his part. Mr. Casten conceded at hearing that he had pled guilty to a felony for writing this particular prescription. Mr. Casten testified that the felony that he pled guilty to involved the June 10, 1998, prescription and had not been committed in the course of practice. (Tr. 86,88-89, 91-95)

6. Dr. Clemency testified that Mr. Casten had been a patient of hers who had been treated for ongoing back pain. She also testified that she had prescribed, Phrenilin, the same drug which appears on the June 10, 1998, prescription, for Mr. Casten on occasions previous to his having written this prescription. (Tr. 59-60; St. Ex. 5)
7. Mr. Casten testified that he left Dennison Avenue in July 1998, to accept a position that paid more. Mr. Casten explained that, after he left Dennison Avenue, he worked for two other physicians. Mr. Casten further testified that Patient 1 was still an employee at Dennison Avenue when he left. (Tr. 86, 88, 91)

Mr. Casten testified that he has applied for admission to a Master's degree program and has taken some computer classes during his suspension. He noted that, due to his scheduled surgery, he would not begin course work until winter 2001. (Tr. 93)

8. Mr. Casten testified that he is not currently working because of the suspension of his certificate. When asked at hearing if he believed he was impaired, Mr. Casten responded, "Absolutely not." Mr. Casten testified that he feels that this incident has destroyed his life and that he is remorseful about what happened. Mr. Casten testified that he does not deserve to lose his license. At hearing, he asserted that this situation will never be repeated. Mr. Casten explained that he would cooperate with any restrictions the Board might impose. (Tr. 86, 90, 93)

FINDINGS OF FACT

1. Timothy L. Casten, P.A., entered into a supervision agreement with Arnold O. Allenius, D.O., and Karen A. Clemency, M.D., which became effective on April 7, 1997.

Pursuant to this supervision agreement, he agreed that he would practice in accordance with Dr. Allenius' and Dr. Clemency's Physician Assistant Utilization Plan, as approved by the Board. In part, this plan permitted Mr. Casten to "[c]arry out or relay the supervising physician's orders for medication, to the extent permitted under laws pertaining to drugs."

2. Contrary to the requirements of the Utilization Plan, Mr. Casten prescribed the following dangerous drugs and controlled substances to Patient 1 without receiving specific authorization from his supervising physician or any other physician:

<u>DATE</u>	<u>DRUG</u>	<u>QUANTITY</u>
1/29/97	Fioricet	20
8/10/97	Phrenilin	15
11/8/97	Phrenilin	15
11/28/97	Phrenilin	15
12/8/97	Adipex P	14
12/16/97	Phrenilin Forte	15
12/22/97	Adipex P	14
1/5/98	Adipex P	14
1/9/98	Fioricet	20
1/18/98	Adipex P	14
2/5/98	Adipex P	14
2/19/98	Adipex P	14

3. Contrary to the requirements of the Utilization Plan, Mr. Casten prescribed Phrenilin, a dangerous drug, to himself without receiving specific authorization from his supervising physician or any other physician.
4. On April 12, 2000, in the Court of Common Pleas of Franklin County, Ohio, Mr. Casten pled guilty to one felony count of Illegal Processing of Drug Documents, in violation of Section 2925.23, Ohio Revised Code.

CONCLUSIONS OF LAW

1. The acts, conduct, and/or omissions of Timothy L. Casten, P.A., as described in Findings of Fact 2 and 3, individually and/or collectively, constitute "[f]ailure to practice in accordance with the conditions under which the supervising physician's supervision agreement with the physician assistant was approved, including the requirement that when practicing under a particular supervising physician, the physician assistant must practice

only according to the standard or supplemental utilization plan the board approved for that physician,” as that clause is used in Section 4730.25(B)(1), Ohio Revised Code.

2. Mr. Casten’s acts, conduct, and/or omissions as described in Findings of Fact 2 and 3, individually and/or collectively, constitute “[f]ailure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board”; as that clause is used in Section 4730.25(B)(2), Ohio Revised Code, to wit: Section 4730.02(F), Ohio Revised Code.
3. Mr. Casten’s acts, conduct, and/or omissions as described in Findings of Fact 2 and 3, individually and/or collectively, constitute “[c]ommission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice,” as that clause is used in Section 4730.25(B)(15), Ohio Revised Code, as in effect prior to March 9, 1999, to wit: Section 4730.02(F), Ohio Revised Code. Pursuant to Section 4730.99, Ohio Revised Code, violation of Section 4730.02, Ohio Revised Code, constitutes a misdemeanor offense.
4. Mr. Casten’s acts, conduct, and/or omissions as described in Findings of Fact 2 and 3, individually and/or collectively, constitute “[f]ailure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board,” as that clause is used in Section 4730.25(B)(2), Ohio Revised Code, to wit: Rule 4731-4-03(C), Ohio Administrative Code.
5. Mr. Casten’s acts, conduct, and/or omissions as described in Findings of Fact 2, individually and/or collectively, constitute “[c]ommission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed” as that clause is used in Section 4730.25(B)(12), Ohio Revised Code, to wit: Section 2925.23, Ohio Revised Code, Illegal processing of drug documents.
6. Mr. Casten’s plea of guilty as described in Findings of Fact 4, constitutes “[a] plea of guilty to, or a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction for, a felony,” as that clause is used in Section 4730.25(B)(11), Ohio Revised Code.
7. Mr. Casten’s plea of guilty as described in Findings of Fact 4, constitutes “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking drugs,” as that clause is used in Section 4730.25(B)(17), Ohio Revised Code.

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The conduct of Timothy L. Casten, P.A., could justify the Board in permanently revoking his certificate to practice as a physician assistant in Ohio. Most disturbing is Mr. Casten's continued insistence that the illegal prescriptions were "authorized" according to the standard procedures in place at the Dennison Avenue Medical Center. Additionally, it is disturbing that he believes that the felony of which he was convicted was not committed in the course of practice. While the evidence presented at hearing tends to show that Mr. Casten was indeed following standard procedures at Dennison Avenue, such a claim is not a defense to the allegations at issue in this hearing. If Mr. Casten's testimony at hearing was entirely accurate, the evidence still supports the Findings of Fact and Conclusions of Law. It is Mr. Casten's apparent failure to understand this reality that raises the greatest concern about his ability to practice safely and legally in the future.

Offering Mr. Casten a last opportunity to preserve his career as a physician assistant must be conditioned on his demonstrating that he has gained an accurate understanding of the issues raised by his conduct and his responsibility to abide by the law regardless of the actions of others.

Mr. Casten's conduct justifies the Board in suspending him from practice for a period of time, then closely monitoring him until he has demonstrated an ability to practice safely and legally.

PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of Timothy L. Casten, P.A., to practice as a physician assistant in the State of Ohio shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Mr. Casten's certificate is SUSPENDED for an indefinite period of time, but not less than two years.
2. For the duration of the suspension period, Mr. Casten shall be subject to the following terms, conditions, and limitations:
 - a. Mr. Casten shall obey all federal, state and local laws; all rules governing the practice of medicine and surgery in Ohio; and all terms of probation imposed by the Franklin County Common Pleas Court in criminal case number 99CR-04-2120.
 - b. Mr. Casten shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the terms of this Order. The first quarterly declaration must be received in the

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Board's offices on or before the first day of the third month following the month in which this Order becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must also be received in the Board's offices on or before the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month, unless otherwise determined by the Board.

- c. Mr. Casten shall appear in person for interviews before the full Board or its designated representative during the third month following the month in which this Order becomes effective, provided that if the effective date is on or after the 16th day of the month, the first personal appearance must occur during the fourth month following. Subsequent personal appearances must occur every third month thereafter, upon Mr. Casten's request for reinstatement, 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. Although the Board will normally give him written notification of scheduled appearances, it is Mr. Casten's responsibility to know when personal appearances will occur. If he does not receive written notification from the Board by the end of the month in which the appearance should have occurred, Mr. Casten shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

- d. Mr. Casten shall obtain the approval of the Board for any employment related to the health care fields. The Board shall consider, among other factors, the adequacy and continuity of supervision and the feasibility of restricted access to controlled substances, which will ensure the protection of the public, prior to approval or disapproval of the proposed employment.

3. The Board shall not consider reinstatement of Mr. Casten's certificate to practice unless all of the following minimum requirements have been met:

- a. Mr. Casten shall submit an application for reinstatement, accompanied by appropriate fees, if any.
- b. Prior to submitting his application for reinstatement, Mr. Casten shall take and pass an examination to be administered by the Board or its designee related to the content of Ohio statutes and Board rules relating to the practice of Physician Assistants.

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- c. Mr. Casten shall maintain compliance with all terms and conditions of this Order, unless otherwise determined by the Board.
 - d. In the event that Mr. Casten has not been engaged in active practice as a physician assistant 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 his fitness to resume practice.
4. Upon reinstatement, Mr. Casten's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
- a. Mr. Casten shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations.
 - b. Mr. Casten shall obey all federal, state and local laws, and all rules governing the practice of medicine and surgery in Ohio, and all terms of probation imposed by the Franklin County Court of Common Pleas in criminal case number 99CR-04-2120.
 - c. Mr. Casten shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of probation. 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 in which probation becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must also be received in the Board's offices on or before the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month, unless otherwise determined by the Board.
 - d. Mr. Casten shall appear in person for interviews before the full Board or its designated representative during the third month following the month in which probation becomes effective, provided that if the effective date is on or after the 16th day of the month, the first personal appearance must occur during the fourth month following. Subsequent personal appearances must occur every third month thereafter, upon Mr. Casten's request for termination of the probationary period, and/or as otherwise requested by the Board.

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If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled. Although the Board will normally give him written notification of scheduled appearances, it is Mr. Casten's responsibility to know when personal appearances will occur. If he does not receive written notification from the Board by the end of the month in which the appearance should have occurred, Mr. Casten shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

- e. In the event that Mr. Casten should leave Ohio for three consecutive months, or reside or practice outside the State, Mr. Casten must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
- f. If Mr. Casten violates probation in any respect, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period.
- g. Periods of time during which Mr. Casten's certificate to practice medicine and surgery is inactive due to nonpayment of renewal fees will not apply to the reduction of the probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
- h. Mr. Casten shall provide a copy of this Order by certified mail to all employers or entities with which he applies or contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where Mr. Casten applies for or obtains privileges or appointments. Further, Mr. Casten shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
- i. Mr. Casten's practice shall be limited to a supervised structured environment in which Mr. Casten's activities will be directly supervised and overseen by the monitoring physician approved by the Board prior to Mr. Casten's reinstatement. The monitoring physician shall monitor Mr. Casten and provide the Board with reports on Mr. Casten's progress and status on a quarterly basis. All monitoring physician reports required under this paragraph must be received in the Board's offices no later than the due date for Mr. Casten's quarterly declaration. It is Mr. Casten's responsibility to ensure that the reports are timely submitted.

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Mr. Casten shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

In the event that the approved monitoring physician becomes unable or unwilling to serve, Mr. Casten shall immediately notify the Board in writing and shall make arrangements for another monitoring physician as soon as practicable. Mr. Casten shall refrain from practicing until such supervision is in place, unless otherwise determined by the Board. Mr. Casten shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefor.

- j. Mr. Casten shall provide a copy of this Order by certified mail, return receipt requested, at the 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. Casten shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
 - k. If any declaration or report required by this Order is not received in the Board's offices on or before its due date, Mr. Casten shall cease practicing as a physician assistant beginning the day following Mr. Casten's receiving notice from the Board of non-receipt, either by writing, telephone, or by personal contact, until the declaration or report is received in the Board offices. Any practice during this time period shall be considered unlicensed practice as a physician assistant in violation of Section 4730.02, Ohio Revised Code.
 - l. If Mr. Casten violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may set aside the stay order and impose the permanent revocation of Mr. Casten's certificate.
5. Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Casten's certificate will be fully restored.

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



Daniel Roberts
Attorney Hearing Examiner



State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF NOVEMBER 8, 2000

REPORTS AND RECOMMENDATIONS

Dr. Egner announced that the Board would now consider the findings and orders appearing on the Board's agenda.

Dr. Egner asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of Edward Miles Birdsong, D.O.; Timothy L. Casten, P.A.; Nasira F. Hasan, M.D.; Elliot L. Neufeld, D.O.; and David H. Procter, M.D. A roll call was taken:

ROLL CALL:	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Egner	- aye

Dr. Egner 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:	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Egner	- aye

Dr. Egner 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.

Dr. Egner stated that if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

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

.....
TIMOTHY L. CASTEN, P.A.

Dr. Egner directed the Board's attention to the matter of Timothy L. Casten, P.A. She advised that no objections were filed to Hearing Examiner Roberts' Report and Recommendation.

Dr. Egner continued that a request to address the Board has been timely filed on behalf of Mr. Casten. Five minutes would be allowed for that address.

Mr. Smith advised that he represented Mr. Casten in both the criminal matter and the matter before the Board. With his experience as a former prosecutor and a former director of law enforcement for the state of Ohio, he obviously knows that there was some concern with this case. This is a case that started out simply as a target on an individual who worked at the same office in which Mr. Casten worked. They, in fact, were not friends but were actually dire enemies. Mr. Casten had recommended and asked that this individual not be hired at this facility. Mr. Casten had worked with him previously and at the other facility had some very unkind things to say about him. This individual was taking prescriptions. Without question, he had a drug problem and, when he was approached by investigators, he indicated that Mr. Casten was involved in it. Mr. Smith stated that, often when individuals are approached and asked if anyone else is involved, they will name others in an effort to be treated more kindly. Mr. Smith stated that he believes that that is what happened in this case. This individual didn't have a license and didn't do any jail time. He went into a program and is going on with his life.

Mr. Smith stated that Mr. Casten was thoroughly investigated and none of the allegations made by this individual against Mr. Casten were true. There was simply one prescription written by Mr. Casten. Mr. Casten was also a patient at the facility and was seen by a physician and prescribed this same narcotic medication on numerous occasions. Mr. Casten did plead guilty to one count of having written a prescription for himself and indicated that it was a mistake or an oversight on his part for not having entered this into the record.

Mr. Smith stated that Mr. Casten has asked him to relay to the Board that this is something that has been very traumatic for him. It's changed his life completely. This was his livelihood and his life, and he very much enjoyed the position that he had and was very good at it. He will guarantee the Board that, given the opportunity, the Board will never hear his name again. He is more than willing to abide by any restrictions the Board places on his license. Mr. Smith asked that the Board accept the Hearing Examiner's Proposed Order so that in two years he can move on and prove that he is qualified and will follow the rules put forth for a physician assistant.

Dr. Egner asked whether the Assistant Attorney General wished to respond.

Ms. Albers stated that she believes the Hearing Examiner's Report and Recommendation did a great job in setting forth the evidence presented at hearing. She would like to remind the Board that Mr. Casten did plead guilty to illegal processing of drug documents, a drug related felony which was committed in the course of his practice as a physician assistant. She believes that the Report and Recommendation sets forth the Findings of Fact and Conclusions of Law very well. She does, however, feel that the Proposed Order is very generous.

DR. SOMANI MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF TIMOTHY L. CASTEN, P.A. DR. AGRESTA SECONDED THE MOTION.

Dr. Egner stated that she would now entertain discussion in the above matter.

Dr. Steinbergh stated that the first thing she would like to do is make a technical correction. She noted that paragraph 4.g. of the Proposed Order indicates that Mr. Casten has a certificate to practice medicine and surgery, rather than a P.A. registration.

DR. STEINBERGH MOVED TO AMEND PARAGRAPH 4.g. OF THE PROPOSED ORDER TO READ AS FOLLOWS:

Periods of time during which Mr. Casten's certificate of registration as a physician assistant is inactive due to nonpayment of renewal fees will not apply to the reduction of the probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.

DR. SOMANI SECONDED THE MOTION. A vote was taken:

Vote:	Dr. Bhati	- aye
	Dr. Talmage	- aye

Dr. Somani	- aye
Dr. Buchan	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Agresta	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye

The motion carried.

Dr. Egner asked for further discussion of the case.

Dr. Agresta stated that he agrees that the Proposed Order is generous, considering the record.

Dr. Somani agreed with Dr. Agresta, stating that there is evidence that for one whole year there were a number of prescriptions dispensed to Patient 1. He feels that it is unfortunate that the Board hears the excuse that there was only one incident. There was a pattern of prescribing for Patient 1, and the prescriptions were filled. There is no question in his mind that Mr. Casten is guilty of this. In previous cases such as this, the Board has been very strict, even to the extent of revoking a license.

Dr. Egner stated that she agrees with what has been said, and she added that the Proposed Order falls completely outside the Board's disciplinary guidelines. The record in this case deserves a revocation, and hearing Mr. Smith's comments only confirms that for her. All of the allegations are still being denied. The fact that Patient 1 didn't suffer and have jail time means nothing. Patient 1 is not licensed by this Board or by anyone else. Mr. Casten is licensed and is therefore held to a different standard. He put his license in jeopardy when he decided to disobey the rules and commit a felony. She would be inclined to revoke Mr. Casten's license.

Dr. Steinbergh agreed that permanent revocation would be appropriate in this case.

DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF TIMOTHY L. CASTEN, P.A., BY SUBSTITUTING AN ORDER OF PERMANENT REVOCATION, EFFECTIVE IMMEDIATELY UPON THE MAILING OF NOTIFICATION OF APPROVAL BY THE BOARD. DR. EGNER SECONDED THE MOTION.

Dr. Egner stated that she would entertain discussion of the proposed amendment.

There was none.

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

Vote:	Dr. Bhati	- aye
	Dr. Talmage	- nay
	Dr. Somani	- aye
	Dr. Buchan	- nay
	Mr. Browning	- nay
	Ms. Sloan	- aye
	Dr. Agresta	- nay
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye
	Dr. Egner	- aye

The motion carried.

Mr. Browning stated that over the last few months the Board has seen a pattern of physicians leaving pre-signed prescriptions in their offices. He referred to Mr. Casten's statement that they know pre-signed prescriptions are a no-no, but they have been left in every practice in which he's worked. Mr. Browning stated that this appears to be a pattern that the Board ought to check out. The Board hears this repeatedly from doctors, P.A.s and others. This is not the way physicians should be doing business, and the Board needs to deal with that at some point.

Dr. Egner stated that the key in this case is that Mr. Casten knew that that was against the rules.

Mr. Browning stated that he's not saying that Mr. Casten should be left off the hook. His point is that this is not consistent with the way people should be practicing, and yet it appears to be going on at some significant level, anecdotally.

Dr. Talmage stated that he supervises six P.A.s. There is not a pre-signed prescription anywhere in that office. Each patient is presented to him, and the prescriptions that are necessary for the patient are signed at that time. He suspects that it does go on, but it need not, should not, and the rules when he signed the supervisory agreement said that it would not go on. Whenever it's found, it should be punished. It is clearly known by everyone that you can't do that. This person indicated that they clearly knew it shouldn't be done.

Dr. Talmage continued that the reason he voted against the amendment is that the Proposed Order was for a minimum two-year suspension to watch this individual to see if he may be able to come back into practice. He believes someone should be given that chance. Yes, the conviction was bad, it is a felony, but is this person to be thrown on the scrap heap? Dr. Talmage stated that he doesn't feel that he should be.

Dr. Bhati stated that this felony is in the course of practice. The number of prescriptions written was phenomenal. Dr. Bhati stated that this person should not have an option to work in a practice when there is a felony committed in the course of that practice. That is very significant to him.

Dr. Somani stated that there is no question in his mind that this is a serious offense. If you look at the Board's guidelines, they clearly state that the minimum penalty for something like this, when there were a number of prescriptions written over a period of twelve months, is permanent revocation.

DR. BHATI MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF TIMOTHY L. CASTEN, P.A. DR. SOMANI SECONDED THE MOTION. A vote was taken:

Vote:	Dr. Bhati	- aye
	Dr. Talmage	- nay
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- nay
	Ms. Sloan	- aye
	Dr. Agresta	- nay
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye
	Dr. Egner	- aye

The motion carried.



State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING

May 10, 2000

Timothy L. Casten, P.A.
1020 Dennison Avenue
Columbus, Ohio 43201

Dear Mr. Casten:

In accordance with Sections 2929.24 and/or 3719.12, Ohio Revised Code, the Office of the Prosecuting Attorney of Franklin County, Ohio, reported that on or about April 12, 2000, in the Court of Common Pleas of Franklin County, Ohio, you pled guilty to one count of Illegal Processing of Drug Documents, in violation of Section 2925.23, Ohio Revised Code.

Therefore, pursuant to Section 3719.121(C), Ohio Revised Code, you are hereby notified that your certificate of registration as a physician assistant is immediately suspended. Continued practice after this suspension shall be considered practicing without a certificate in violation of Section 4730.02, Ohio Revised Code.

Furthermore, in accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate of registration as a physician assistant, or to reprimand or place you on probation for one or more of the following reasons:

- (1) You entered into a supervision agreement with Arnold O. Allenius, D.O., and Karen A. Clemency, M.D., which became effective on April 7, 1997. Pursuant to this supervision agreement, you agreed that you would practice in accordance with Dr. Allenius' and Dr. Clemency's Physician Assistant Utilization Plan ("Utilization Plan"), as approved by the Board. In part, this plan permitted you to "[c]arry out or relay the supervising physician's orders for medication, to the extent permitted under laws pertaining to drugs."
- (2) Contrary to the requirements of the Utilization Plan, you prescribed the following dangerous drugs and controlled substances to Patient 1 (as identified on the attached Patient Key - Key confidential and not subject to public disclosure) without receiving specific authorization from your supervising physician or any other physician:

<u>DATE</u>	<u>DRUG</u>	<u>QUANTITY</u>
1/29/97	Fioricet	20
8/10/97	Phrenilin	15

Mailed 5-11-00

11/8/97	Phrenilin	15
11/28/97	Phrenilin	15
12/8/97	Adipex P	14
12/16/97	Phrenilin Forte	15
12/22/97	Adipex P	14
1/5/98	Adipex P	14
1/9/98	Fioricet	20
1/18/98	Adipex P	14
2/5/98	Adipex P	14
2/19/98	Adipex P	14

- (3) Contrary to the requirements of the Utilization Plan, you prescribed the following dangerous drug to Patient 2 (as identified on the attached Patient Key - Key confidential and not subject to public disclosure) without receiving specific authorization from your supervising physician or any other physician:

<u>DATE</u>	<u>DRUG</u>	<u>QUANTITY</u>
6/10/98	Phrenilin	40

- (4) On or about April 12, 2000, in the Court of Common Pleas of Franklin County, Ohio, you pled guilty to one felony count of Illegal Processing of Drug Documents, in violation of Section 2925.23, Ohio Revised Code.

Your acts, conduct, and/or omissions as alleged in paragraphs (2) and (3) above, individually and/or collectively, constitute “[f]ailure to practice in accordance with the conditions under which the supervising physician’s supervision agreement with the physician assistant was approved, including the requirement that when practicing under a particular supervising physician, the physician assistant must practice only according to the standard or supplemental utilization plan the board approved for that physician,” as that clause is used in Section 4730.25(B)(1), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (2) and (3) above, individually and/or collectively, constitute “[f]ailure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;” as that clause is used in Section 4730.25(B)(2), Ohio Revised Code, to wit: Section 4730.02(F), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (2) and (3) above, individually and/or collectively, constitute “[c]ommission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice,” as that clause is used in Section 4730.25(B)(15), Ohio Revised Code, as in effect prior to March 9, 1999, to wit: Section 4730.02(F), Ohio Revised Code. Pursuant to Section 4730.99, Ohio Revised Code, violation of Section 4730.02, Ohio Revised Code, constitutes a misdemeanor offense.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (2) and (3) above, individually and/or collectively, constitute “[f]ailure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board” as that clause is

Suspension
Timothy L. Casten, P.A.
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used in Section 4730.25(B)(2), Ohio Revised Code, to wit: Rule 4731-4-03(C), Ohio Administrative Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute “[c]ommission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed” as that clause is used in Section 4730.25(B)(12), Ohio Revised Code, to wit: Section 2925.23, Ohio Revised Code, Illegal processing of drug documents.

Further, your plea of guilty as alleged in paragraph (4) above, individually and/or collectively, constitutes “[a] plea of guilty to, or a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction for, a felony,” as that clause is used in Section 4730.25(B)(11), Ohio Revised Code.

Further, your pleas of guilty as alleged in paragraph (4) above, individually and/or collectively, constitutes “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking drugs,” as that clause is used in Section 4730.25(B)(17), 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 (30) 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 (30) 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 or suspend your certificate of registration as a physician assistant, refuse to issue or reinstate your certificate or to reprimand or place you on probation.

Please note that, whether or not you request a hearing, Section 4730.25(L), Ohio Revised Code, effective March 9, 1999, provides that “[w]hen the board refuses to grant a certificate of registration as a physician assistant to an applicant, revokes an individual’s certificate of registration, refuses to issue a certificate of registration, or refuses to reinstate an individual’s certificate of registration, 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 of registration as a physician assistant and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

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Copies of the applicable sections are enclosed for your information.

Very truly yours,



Anand G. Garg, M.D.
Secretary

AGG/bjs
Enclosures

CERTIFIED MAIL # Z 395 591 220
RETURN RECEIPT REQUESTED

Duplicate Mailing: Timothy L. Casten, P.A.
1087 Say Avenue
Columbus, Ohio 43201

CERTIFIED MAIL # Z 395 591 221
RETURN RECEIPT REQUESTED

cc: Charles Smith, Attorney at Law
CERTIFIED MAIL # Z 395 591 222
RETURN RECEIPT REQUESTED