



State Medical Board of Ohio

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

March 14, 2007

Thomas Leon Gemmer, P.A.
1049 Chippewa Drive
Van Wert, OH 45891-2666

Dear Mr. Gemmer:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Christopher B. McNeil, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on March 14, 2007, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3933 4658 8725
RETURN RECEIPT REQUESTED

Mailed 3-16-07

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Christopher B. McNeil, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on March 14, 2007, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Thomas Leon Gemmer, 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.



Lance A. Talmage, M.D.
Secretary

(SEAL)

March 14, 2007
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

THOMAS LEON GEMMER, P.A.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on March 14, 2007.

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

It is hereby ORDERED that:

The certificate of Thomas Leon Gemmer, P.A., to practice as a physician assistant in the State of Ohio is REVOKED.

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

(SEAL)



Lance A. Talmage, M.D.
Secretary

March 14, 2007
Date

**REPORT AND RECOMMENDATION
IN THE MATTER OF THOMAS LEON GEMMER, P.A.**

The Matter of Thomas Leon Gemmer, P.A., was heard by Christopher B. McNeil, Esq., Hearing Examiner for the State Medical Board of Ohio, on November 28, 2006.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated August 9, 2006, the State Medical Board of Ohio [Board] notified Thomas Leon Gemmer, P.A., that it proposed to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register, or reinstate Mr. Gemmer's certificate of registration as a physician assistant, or to reprimand him or place him on probation. The Board based its proposed action on a prior action against Mr. Gemmer by the Medical Licensing Board of Indiana [Indiana Board]. The Board alleged that the action of the Indiana Board constitutes "action[] taken by the state agency responsible for regulating the practice of physician assistants in another state, for any reason other than the nonpayment of fees [including] the limitation, revocation, or suspension of an individual's license to practice" as that clause is used in R.C. 4730.25(B)(18). Upon stating the bases for the Board's proposed action, the Board advised Mr. Gemmer of his right to a hearing. (State's Exhibit [St. Ex.] 1A).
- B. The Board received a written hearing request from Mr. Gemmer on May 17, 2006. (St. Ex. 1B).

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Kyle C. Wilcox, Assistant Attorney General.
- B. On behalf of the Respondent: Mr. Gemmer appeared *pro se*.

EVIDENCE EXAMINED

I. Testimony Heard

Mr. Gemmer testified at the evidentiary hearing. There were no other witnesses.

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A through 1G: Procedural exhibits.
2. State's Exhibit 2: Certified copies of documents pertaining to Mr. Gemmer maintained by the Indiana Board.
3. State's Exhibit 3: Proposed Settlement Agreement

B. Presented by the Respondent

1. Respondent's Exhibit A1: Copy of a cover letter to AAG Wilcox from Mr. Gemmer received on October 30, 2006.
2. Respondent's Exhibit A2: Copy of State's Request for List of Witnesses and Documents.
3. Respondent's Exhibit A3: Copy of letter to Mr. Gemmer from John R. Fleck, lawyer, dated June 15, 1999.
4. Respondent's Exhibit A4: Copy of a letter to Laurie Kauffman from John R. Fleck, lawyer, dated August 4, 1999.
5. Respondent's Exhibit A6: Copy of a letter to Will J. Mitchell from John R. Fleck, lawyer, received on February 4, 2000.
6. Respondent's Exhibit A10: Copy of a transcript of proceedings in the matter of Thomas Gemmer & StatCare of Fort Wayne, in Indiana Department of Workforce Development Case No. 98-37-8.
7. Respondent's Exhibit A39: Copy of Draft Physician Assistant – Physician Collaborative Agreement.
8. Respondent's Exhibit A43: Copy of Memorandum from Chip Hubbs to All StatCare of Fort Wayne, Indiana, Inc. dated September 3, 1997.

9. Respondent's Exhibit A45: Copy of Dates and Times of StatCare Employee Testing, undated.
10. Respondent's Exhibit A46: Copy of StatCare Organizational Chart, undated.
11. Respondent's Exhibit A47: Copy of a cover letter to Mr. Gemmer from AAG Wilcox, along with a notice of appearance of counsel, dated September 26, 2006.

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. Thomas Leon Gemmer, P.A., holds a certificate issued by the State Medical Board of Ohio, authorizing him to practice as a physician assistant, and he has been licensed in Ohio since 1980. He also was licensed as a physician assistant in Indiana and currently is licensed as a Registered Nurse in both Ohio and Indiana. (Tr. at 17-18)
2. Mr. Gemmer is permanently disabled, and last worked as a physician assistant in June 2005. (Tr. at 17)
3. Mr. Gemmer graduated from the U.S. Navy's Hospital Corps School at Great Lakes in 1966, and thereafter worked as a Navy corpsman at the Naval Hospital at the Marine base at Quantico, Virginia. He explained that Navy corpsmen are actually patient caregivers, like a vocational nurse or LPN, and must complete 560 hours of vocational nursing training. After working at Quantico, Mr. Gemmer was transferred to Camp Pendleton, where he completed Marine basic training in 1967. Afterwards, he was a medical support corpsman at the base hospital at Twenty-Nine Palms in the Mojave Desert, with the field artillery, working in Medivac and safety training. He completed a thirteen and a half month tour of duty with the Marines in Vietnam, and upon his return to the United States, he completed a term in the Reserves, during which time he earned a nursing degree and completed his training as a registered nurse and as a physician assistant at Indiana University School of Medicine, in 1976. (Tr. at 14)
4. After earning his nursing degree, Mr. Gemmer worked as the deputy coroner and chief investigator for the Allen County (Indiana) Coroner, and set up a medical program for the Allen County Jail. He has also worked at St. Joseph's Medical Center, and in the emergency room at Parkview Hospital. He also has worked in a nursing home practice and in the area of occupational health for North American Van Lines. (Tr. at 15)

5. Mr. Gemmer explained that, when he had worked at St. Joseph's Medical Center in Fort Wayne, Indiana, he suggested they open a "fast track," where the triage nurses could take patients who were non-emergencies and treat them, so that they were not in the way when cardiac arrests, gunshots, and the like, would come in. The Medical Center remodeled an office in Fort Wayne and called it "StatCare," and put Mr. Gemmer to work there. (Tr. at 16)
6. Mr. Gemmer acknowledged that, as described more fully below, in June 2006, the Medical Licensing Board of Indiana [Indiana Board], acting through the Physician Assistant Committee of the Indiana Professional Licensing Agency, revoked his license to practice as a physician assistant in that state. (Tr. at 20; St. Ex. 2, at 5)
7. On March 13, 2006, when his case was pending before the Indiana Board, Mr. Gemmer stipulated to the facts that eventually led to the Indiana Board revoking his license. The stipulation is in the record as State's Exhibit 3. In it, Mr. Gemmer admitted that he "wrote and signed more than two hundred prescriptions using DEA#MG1077038, which does not exist as a valid DEA number," and that he "wrote and signed over three hundred prescriptions for controlled substances that were not signed by a physician." He also acknowledged that some of these prescriptions "represented potentially dangerous combinations of prescription pain medication," and noted that, in Indiana, physician assistants do not have prescriptive authority. (St. Ex. 3 at 1-2)
8. Based on these stipulations, the Physician Assistant Committee of the Indiana Professional Licensing Agency found that Mr. Gemmer "has become unfit due to professional incompetence that may include the undertaking of professional activities that the practitioner is not qualified by training or experience to undertake." Upon these findings, the Indiana Board revoked Mr. Gemmer's license, effective June 15, 2006. (St. Ex. 2 at 5)
9. Mr. Gemmer explained that the false DEA number he used when writing the prescriptions had been used "for the purposes of authenticating" the prescriptions. He said the number "was not a DEA number as such," but that he had been given the number by StatCare. He said he was working pursuant to the terms of a Physician Assistant-Physician Collaborative Agreement (Resp. Ex. A39). He said it had been his understanding that while a physician assistant could not write prescriptions, "we could write them and the doctor would have to counter-sign them." He said, "That was all part of the collaborative agreement, so every prescription that I had was written based on that agreement," with Steven M. Ross, M.D., serving as the supervising physician in this collaboration. (Tr. at 25-26; Resp. Ex. A39)
10. Mr. Gemmer said apart from his medical training, he also worked in law enforcement, and is a graduate of the Ohio Academy of Peace Officers. He said he has worked in "prisons and confinement facilities where you're locked in, and certainly would not purposely violate laws." (Tr. at 22)

11. Mr. Gemmer provided to the Board copies of correspondence sent by his attorney, John Fleck, to the Licensing Analyst assigned to investigate this case in Indiana, explaining Dr. Ross's role and Mr. Gemmer's role in drawing up the StatCare prescriptions. The correspondence, while hearsay, appears to provide significant details about what the Indiana Board was looking into when it took its action against Mr. Gemmer. In short, it appears the Indiana Board investigated Mr. Gemmer concerning the use of prescriptions written when he worked at StatCare. The prescriptions included a reference number, a number that was not a DEA-issued number but was instead a number generated by StatCare for use in tracking prescriptions. He said the number he used on these prescriptions "was given to the pharmacists and stuff so that they would know that the prescription came from me." (Tr. at 22)
12. Mr. Gemmer was fired from StatCare, but he said the problems he had at StatCare were not really about the use of this number: "I was dismissed because of a prescription written for a larger amount of medication than what [he and Dr. Ross] had agreed upon that previous week." (Tr. at 22-23)
13. In the investigation that followed, Mr. Gemmer's attorney was able to establish that Mr. Gemmer did not prescribe anything other than what Dr. Ross had authorized and what had been memorialized on StatCare's chart. Based on this, neither the state nor the federal prosecutors pursued criminal charges against Mr. Gemmer. (Tr. at 23)
14. Mr. Gemmer said he thought all of the problems associated with this incident had been resolved in 2000. There was an investigation, he hired an attorney, they went to the prosecutor's office and the DEA, they presented "all the documents and, to my knowledge, the issue was resolved." However, at some point information apparently was conveyed to the Indiana Board, to the effect that StatCare had suspended Mr. Gemmer's privileges when it fired him. When that information was processed by the Indiana Board, a review of Mr. Gemmer's 2001 license renewal application was conducted, at which time the Indiana Board found cause to believe Mr. Gemmer failed to disclose StatCare's action, and that failure constituted a violation of state law. It then initiated the administrative action that led to the revocation of his license. (Tr. at 23-24)
15. In the documents he presented during the hearing, Mr. Gemmer sought to show how proceedings in an unemployment compensation hearing revealed the true nature of what led to the revocation of his license in Indiana. Indeed, those exhibits include a transcript of a tape-recorded hearing where Mr. Gemmer and his lawyer argued that the only thing Mr. Gemmer did was replace lost prescriptions, and argued that Mr. Gemmer "has in good faith written a prescription for the proper reasons." (Resp. Ex. A21)
16. Mr. Gemmer pointed out that during the unemployment compensation hearing in Indiana, StatCare's representative said that "all prescriptions suggested by Mr. Gemmer were

approved by Dr. Ross,” who was the person responsible for working with Mr. Gemmer in the Physician Assistant-Physician Collaborative Agreement. (Tr. at 28-29; Resp. A39)

17. Mr. Gemmer also produced correspondence from his attorney, John Fleck, supporting the proposition that Mr. Gemmer had been fully cooperative with the DEA and the prosecutor’s office, and that after all of the investigations were finished, no criminal charges were filed against Mr. Gemmer. (Tr. at 30; Resp. Ex. A4-9)
18. Mr. Gemmer explained that he and his attorney thought this ended the matter in 2000. He said, however, that in 2002 he received a letter from the Indiana Board questioning Mr. Gemmer’s failure to disclose restrictions on his privileges. By that time, Mr. Fleck had died, and a partner in Mr. Fleck’s law firm took over the case. According to Mr. Gemmer, the attorney, Mr. Weldy, encouraged him to sign the stipulations drawn up by the Indiana Board, even though they were not true. He said, “My attorney made me believe I didn’t have any choice, and I had already spent so much money, and I’m unemployed. I just couldn’t go on anymore, plus, I thought this whole thing had been resolved to everyone’s satisfaction back in 1999.” (Tr. at 31-32, 40)

ANALYSIS

A fair reading of the documents Mr. Gemmer presented to the Board, coupled with his testimony, suggests there is at least some basis for him to contend that he never signed or wrote prescriptions using an invalid DEA registration number, and never wrote prescriptions that were not signed by a physician. His central premise is that all of the prescriptions he filled out between 1997 and 1999 were approved by his supervising physician, Dr. Ross. That premise appears to be borne out by the transcript of the proceedings before the Indiana Department of Workforce Development. In that transcript, the evidence presented at that hearing appears to support Mr. Gemmer’s claim that the prescriptions he wrote were authorized by Dr. Ross. Furthermore, efforts by Mr. Gemmer’s late attorney, John Fleck, appear to have been successful in persuading DEA investigators and prosecutors to conclude that there was no violation of any law occasioned by the prescriptions Mr. Gemmer wrote.

That being said, however, the record is clear that upon whatever evidence it had, the Indiana Board found cause to revoke Mr. Gemmer’s license. It is this decision, and not the premises that supported the Indiana Board’s action, that gives rise to the present administrative action. As the State’s representative correctly noted, the State is not in a position to either try or retry the circumstances that gave rise to the Indiana Board’s action. The record is, after all, unequivocal in that it contains Mr. Gemmer’s written affirmation of the facts shown in the settlement agreement he signed with the Indiana Board. That statement includes Mr. Gemmer’s plain and explicit statement affirming that Mr. Gemmer did in fact do what the Indiana Board charged him with doing. While the Ohio Board can and certainly should take into account Mr. Gemmer’s long history of public service, it cannot ignore the fact that the Indiana Board found the facts before it compelling enough to warrant the revocation of Mr. Gemmer’s license.

In the record now before the Board, it is clear Mr. Gemmer has devoted his entire life to serving his fellow man: as a Marine corpsman, as a correctional institution medical assistant, in his service at StatCare and St. Joseph's, Mr. Gemmer appears to have lived a life committed to helping the medical community. At the same time, being fully aware of this record of service, the State has recommended the revocation of Mr. Gemmer's physician assistant certificate in Ohio. That recommendation, while certainly not binding, carries weight in these proceedings. Ultimately, through such a recommendation, the State expresses what it believes is the best policy for protecting the public in the licensure of physician assistants. Because non-permanent revocation is one of the sanctions available under R.C. 4730.25(B), and because the State's recommendation is consistent with sound public policy, the recommendation is approved. Upon these premises, then, Mr. Gemmer's physician assistant certificate is revoked.

FINDINGS OF FACT

1. The State Medical Board of Ohio issued a physician assistant certificate to Respondent, Thomas Leon Gemmer, P.A.
2. In an order reflecting proceedings conducted on June 15, 2006, the Medical Licensing Board of Indiana acting through the Indiana Professional Licensing Agency revoked Mr. Gemmer's license to practice as a physician assistant in Indiana upon findings that Mr. Gemmer violated Indiana Code Section 25-1-9-4(a)(4)(A)(i). The Indiana Agency found that Mr. Gemmer continued to practice although he had become unfit due to professional incompetence that may include the undertaking of professional activities that he is not qualified by training or experience to undertake.
3. Upon notice that the Indiana Board revoked Mr. Gemmer's license to practice as a physician assistant in Indiana, the Ohio Board initiated an investigation and found cause to propose to take action with respect to the certificate issued to Mr. Gemmer by the Ohio Board. It set forth a notice of its proposed action in a letter to Mr. Gemmer dated August 9, 2006, which Mr. Gemmer received on August 14, 2006. On September 8, 2006, the Board received a written request from Mr. Gemmer asking for an evidentiary hearing prior to any final action being taken in response to the Board's charges. The Board set the matter for hearing to commence on September 22, 2006, and then continued the same. After appointing an administrative hearing examiner, the Board gave Mr. Gemmer the opportunity to present evidence and arguments in support of his cause on November 28, 2006.

CONCLUSIONS OF LAW

1. Because he holds a certificate to practice as a physician assistant issued by the State Medical Board of Ohio, the Respondent, Thomas Leon Gemmer, P.A., is subject to the

jurisdiction of the Board with respect to that certificate in actions taken pursuant to R.C. Chapter 4730.

2. Upon sufficient cause to believe the holder of a certificate issued by the State Medical Board of Ohio has violated a provision of R.C. Chapter 4730 or regulations promulgated thereunder, the Board is authorized to take action with respect to that certificate. Upon his receipt of the Board's charging document, the Respondent timely requested an evidentiary hearing before the Board took any final action based upon the Board's charge. Upon its receipt of the Respondent's request for a hearing, the Board set the matter for hearing in the manner provided for by R.C. 119.07 and 119.09 (the Administrative Procedure Act), and provided the Respondent with an opportunity to be heard, all in the manner provided for by law and in accordance with all statutory and constitutional protections afforded to persons possessing such a certificate.
3. The Board may take disciplinary action against a certificate-holder upon sufficient proof that the "agency responsible for regulating the practice of physician assistants in another state, for any reason other than the nonpayment of fees" had revoked the certificate holder's license to practice as a physician assistant in that jurisdiction, as that clause is used in Section 4730.25(B)(18), Ohio Revised Code.
4. Where the State establishes by at least a preponderance of the evidence, as is the case here, that the Indiana State Medical Board revoked Mr. Gemmer's license to practice as a physician assistant upon the grounds set forth in the foregoing findings of fact, the State has met its burden of establishing a legal basis for taking action against any certificate issued by the Board to Mr. Gemmer in Ohio, pursuant to Section 4730.25(B)(18) of the Ohio Revised Code.
5. Upon the foregoing findings of fact and conclusions of law, the Board may limit, revoke or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate, all pursuant to section 4730.25 of the Revised Code. Further, when the Board revokes an individual's certificate to practice, it may specify that the action is permanent. An individual subject to 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. See R.C. 4730.25(L) (2006).

PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Thomas Leon Gemmer, P.A., to practice as a physician assistant in the State of Ohio is REVOKED.

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

A handwritten signature in black ink, appearing to read "C. McNeil", written over a horizontal line.

Christopher B. McNeil, Esq.
Hearing Examiner



State Medical Board of Ohio

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

EXCERPT FROM THE DRAFT MINUTES OF MARCH 14, 2007

REPORTS AND RECOMMENDATIONS

Dr. Kumar announced that the Board would now consider the Reports and Recommendations appearing on its agenda. He asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Paula Clark Adkins, M.D.; Thomas Leon Gemmer, P.A.; Jeffrey Michael Halter, M.D.; Jeffrey Vaughn Meyer, M.D.; Alan J. Parks, M.D.; Arthur Richard Schramm, M.D.; Philip L. Creps, D.O.; Mark Allen Davis, M.T.; Basma Ricaurte, M.D.; Albert W. Smith, III, M.D.; and Lovsho Phen, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

Dr. Kumar - aye

Dr. Kumar noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. They may, however, participate in the matters of Dr. Halter and Dr. Ricaurte, as those cases are not disciplinary in nature and concern only the doctors' qualifications for licensure. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

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

.....

THOMAS LEON GEMMER, P.A.

.....

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. MCNEIL'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF THOMAS LEON GEMMER, P.A. DR. BUCHAN SECONDED THE MOTION.

.....

A vote was taken on Dr. Steinbergh's motion to approve and confirm:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.



State Medical Board of Ohio

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

August 9, 2006

Thomas Leon Gemmer, P.A.
1049 Chippewa Drive
Van Wert, OH 45891

Dear Mr. Gemmer:

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, 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) On or about June 15, 2006, the Physician Assistant Committee of the Medical Licensing Board of Indiana [Indiana Board] filed Findings of Fact, Ultimate Findings of Fact, Conclusions of Law and Order [Indiana Order] which revoked your license to practice as a physician assistant in the State of Indiana. The Indiana Order is based in part upon facts including that, in 1997 and 1998, during the course of your employment by St. Joseph's Medical Center in Fort Wayne, Indiana, you wrote and signed more than two hundred prescriptions using an invalid DEA registration number and you wrote and signed over three hundred prescriptions for controlled substances, some in dangerous combinations, that were not signed by a physician. The Indiana Order further finds that Indiana law does not permit prescriptive authority by physician assistants. Further, on or about March 8, 2006, your counsel made representations to the Indiana Board that you are physically unable to practice and that following the seven year revocation period set forth in the Indiana Order, you would never reapply for licensure in Indiana. A copy of the Indiana Order is attached hereto and incorporated herein.

The Indiana Order as alleged in paragraph (1) above, constitutes a "[a]ny of the following actions taken by the state agency responsible for regulating the practice of physician assistants in another state, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in Section 4730.25(B)(18), Ohio Revised Code.

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

Mailed 8-10-06

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 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.

Please note that, whether or not you request a hearing, Section 4730.25(L), Ohio Revised Code, 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,



Lance A. Talmage, M.D.
Secretary

LAT/blt
Enclosures

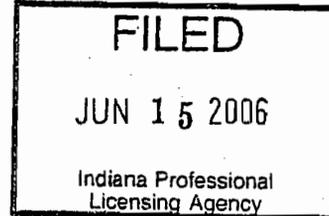
CERTIFIED MAIL # 7004 2510 0006 9801 7565
RETURN RECEIPT REQUESTED

cc: S. Daniel Weldy, III, Esq.
Lincoln Tower
116 East Berry Street
Fort Wayne, IN 46802

CERTIFIED MAIL # 7004 2510 0006 9801 7558
RETURN RECEIPT REQUESTED

BEFORE THE PHYSICIAN
ASSISTANT COMMITTEE
CAUSE NUMBER: 2004 PAC 0001

STATE OF INDIANA,)
)
 Petitioner,)
)
 v.)
)
 Thomas Leon Gemmer, P.A.,)
 License Number: 10000122A,)
)
 Respondent.)



**FINDINGS OF FACT, ULTIMATE FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER**

The Petitioner, the State of Indiana, by Patrick J. McCool, Deputy Attorney General, Division of Consumer Protection (“Petitioner”), and the Respondent, Thomas Leon Gemmer, (“Respondent”), by counsel S. Daniel Weldy, III, signed an Agreement that purports to resolve all issues involved in the action by the Petitioner before the Physician Assistant Committee (“Committee”) regarding Respondent’s physician assistant license, and which Agreement has been submitted to the Committee for approval.

The Committee, after reviewing the Agreement at the June 14, 2006 meeting, now finds it has been entered into fairly and without fraud, duress or undue influence, and is fair and equitable between the parties. The Committee hereby incorporates the Agreement as if fully set forth herein and approves and adopts in full the Agreement as a resolution of this matter. The Committee approved this Agreement by a vote of 3 in favor, 0 against and 1 abstaining. Incorporated into the Agreement was the consensus of both parties to the following Findings of Fact, Ultimate Findings of Fact, Conclusions of

OHIO STATE MEDICAL BOARD

JUN 29 2006

Law and Order. The Committee hereby issues the following Findings of Fact, Ultimate Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Respondent's address on file with the Committee is 1049 Chippewa Drive, Van Wert, Ohio 45891, and he is a duly licensed physician assistant having been issued license number 10000122A.

2. Between June 1997 and January 1998, Respondent was employed by St. Joseph's Medical Center in Fort Wayne, Indiana. The Respondent worked as a physician assistant under the direction of Dr. Steven Ross, M.D., pursuant to a Physician Assistant-Physician Collaborative Agreement.

3. During this period of employment, Respondent wrote and signed more than two hundred (200) prescriptions using DEA #MG1077038, which does not exist as a valid DEA registration number.

4. During this period of employment, Respondent wrote and signed over three hundred (300) prescriptions for controlled substances that were not signed by a physician. Some of these prescriptions represented potentially dangerous combinations of prescription pain medicine. Indiana law does not grant physician assistants prescriptive authority.

5. On or around March 8, 2006, Respondent's counsel made representations to the Committee that Respondent is physically unable to practice and that following the seven (7) year revocation period, Respondent would never reapply for licensure.

OHIO STATE MEDICAL BOARD

JUN 29 2006

ULTIMATE FINDINGS OF FACT

The conduct described above constitutes a violation of Indiana Code § 25-1-9-4(a)(4)(A)(i), in that, Respondent has continued to practice although the practitioner has become unfit due to professional incompetence that may include the undertaking of professional activities that the practitioner is not qualified by training or experience to undertake.

CONCLUSIONS OF LAW

Respondent's failure to comply with the above referenced standards is cause for disciplinary sanctions that may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of \$1000.00 per violation, as detailed at Ind. Code § 25-1-9-9.

ORDER

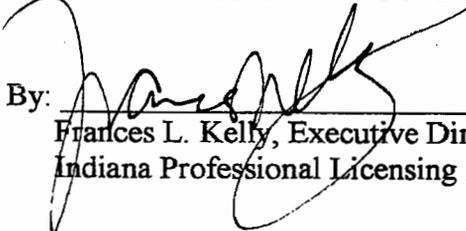
Based on the above Finding of Fact, the Committee issues the following Order:

1. Respondent's license to practice is hereby **REVOKED**.

IT IS FURTHER ORDERED, that Respondent shall immediately surrender all indicia of licensure, including his pocket license and wall license, to the Committee in care of the Indiana Professional Licensing Agency, 402 West Washington Street, Room W072, Indianapolis, Indiana 46204.

SO ORDERED, this 15 day of June, 2006.

PHYSICIAN ASSISTANT COMMITTEE

By: 

Frances L. Kelly, Executive Director
Indiana Professional Licensing Agency

OHIO STATE MEDICAL BOARD

JUN 29 2006

Copies to:

S. Daniel Weldy, III
Lincoln Tower
116 East Berry Street, Suite 1735
Ft. Wayne, IN 46802

Thomas Leon Gemmer
1049 Chippewa Drive
Van Wert, OH 45891
SENT CERTIFIED MAIL NO. 7003 1010 0000 9800 8476
RETURN RECEIPT REQUESTED

Deputy Attorney General Patrick J. McCool
Office of the Attorney General
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, Indiana 46204-2770

OHIO STATE MEDICAL BOARD

JUN 29 2006