

**STATE OF OHIO
THE STATE MEDICAL BOARD**

**PERMANENT SURRENDER OF CERTIFICATE
OF REGISTRATION AS PHYSICIAN ASSISTANT,
RELEASE FROM BOARD ORDER AND DISMISSAL
OF NOTICE OF OPPORTUNITY FOR HEARING**

DONALD A. KOEHLER

I, DONALD A. KOEHLER, am aware of my rights to representation by counsel, the right of being formally charged and having a formal adjudicative hearing, and do hereby freely execute this document and choose to take the actions described herein, after being fully advised by legal counsel.

I, DONALD A. KOEHLER, do hereby voluntarily, knowingly, intelligently, and permanently surrender my certificate of registration as a physician assistant, No. 50-000658, to the State Medical Board of Ohio, thereby permanently relinquishing all rights to practice as a physician assistant in Ohio. This surrender shall be effective as of midnight, March 24, 2000.

I understand that as a result of the surrender herein that I am no longer permitted to practice as a physician assistant in any form or manner in the State of Ohio.

I agree that I shall be ineligible for, and shall not apply for, reinstatement of certificate of registration No. 50-000658 or issuance of any other certificate pursuant to Chapters 4730. or 4731., Ohio Revised Code, on or after the date of signing of this Surrender of Certificate of Registration as Physician Assistant. Any such attempted reapplication shall be considered null and void and shall not be processed by the State Medical Board of Ohio.

In consideration of this Permanent Surrender of Certificate of Registration as Physician Assistant, the State Medical Board of Ohio hereby dismisses the Notice of Opportunity for Hearing issued December 8, 1999 and releases Mr. Koehler from the terms of the February 20, 1998 Board Order.

I, DONALD A. KOEHLER, hereby release and forever discharge the Board, its members, employees, agents, officers and representatives, jointly and severally, from any and all liabilities, rights, causes of action, costs, expenses, attorneys fees, and any other possible claims arising from the within matter.

This document, and the documents referenced herein, shall be considered public records as that term is used in Section 149.43, Ohio Revised Code.

2000 MAR -23 P 11:07
STATE MEDICAL BOARD

Surrender of Certificate
page 2

Further, this information may be reported to appropriate organizations, data banks and governmental bodies.

Signed this 23 day of March, 2000.


DONALD A. KOEHLER


Witness

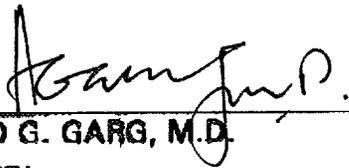
Witness

Sworn to and subscribed in my presence, this ____ day of _____, 2000.

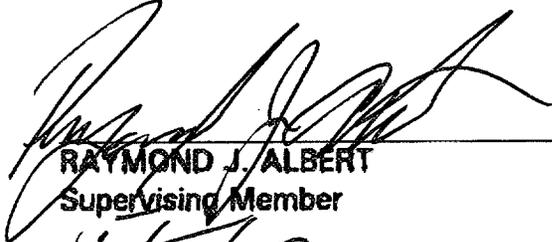
NOTARY PUBLIC

(This form must be either witnessed OR notarized.)

Accepted by the State Medical Board of Ohio:


ANAND G. GARG, M.D.
Secretary

5-8-00
DATE


RAYMOND J. ALBERT
Supervising Member

5/8/00
DATE

2000 MAR 23 P 14:07
STATE MEDICAL BOARD



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 8, 1999

Donald A. Koehler II, P.A.
5862 U.S. Highway 27
Alexandria, Kentucky 41001

Dear Mr. Koehler:

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) By Order of the State Medical Board, effective February 20, 1998, your certificate to practice as a physician assistant was permanently revoked, such revocation was stayed, and your certificate was suspended for at least one year, such time to be calculated from July 9, 1997, the date of the Board's pre-hearing immediate suspension. This order also provided that, upon reinstatement, your certificate to practice as a physician assistant would be subject to certain probationary terms, conditions and limitations for a period of at least five (5) years. The stayed permanent revocation, suspension, and probationary terms were based upon the Board's findings that you violated Sections 4730.25(B)(5), Ohio Revised Code and 4730.25(B)(12), Ohio Revised Code, to wit: Section 2913.02, Ohio Revised Code, Theft of Drugs. A copy of the State Medical Board of Ohio Order is attached hereto and incorporated herein.
- (2) Your certificate to practice as a physician assistant remains suspended to date.
- (3) You have failed to comply with the terms of the February 20, 1998 Order as follows:
 - (a) Paragraph (2)(b) of that Order states: "Mr. Koehler shall provide the Board with written reports of evaluation by a psychiatrist acceptable to the Board indicating that Mr. Koehler's ability to practice has been assessed and that he has been found capable of practicing in accordance with acceptable and prevailing standards of care. The report shall describe with particularity the bases for this determination, shall address the current status of Mr. Koehler's depression, and shall set forth any recommended treatment for Mr. Koehler and/or recommended limitations on his practice. Mr. Koehler shall provide the Board with

Mailed 12/9/99

acceptable documentation evidencing compliance with the plan of recommended treatment, if any, on a quarterly basis, or as otherwise directed by the Board.”

- (b) Paragraph (2)(c) of that Order states “[w]ithin thirty (30) days of the effective date of this Order, Mr. Koehler shall submit to the Board for its prior approval the name of a supervising physician to whom Mr. Koehler shall submit urine specimens as required in paragraph 2(d)(vii), below. The supervising physician shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the Board of any positive screenings.”

However, you failed to comply with this paragraph by failing to submit to the Board the name of a supervising physician.

- (c) Paragraph (2)(d) of that Order states:

For the duration of the suspension period:

* * *

- iv. Mr. Koehler shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended psychiatric treatment, if any, pursuant to paragraph 2(b) above, on a quarterly basis, or as otherwise directed by the Board.

* * *

- vii. Mr. Koehler shall submit to random urine screenings for drugs and/or alcohol on a random basis at least three times per week, or as otherwise directed by the Board. Mr. Koehler shall submit the urine specimens to the supervising physician approved by the Board pursuant to paragraph 2(c), above. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Mr. Koehler shall ensure that the supervising physician provides quarterly reports to the Board, on forms approved or provided by the Board, verifying whether all urine screens have been conducted in compliance with this Order, whether

all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his responsibilities.

* * *

The first quarterly report must be received in the Board's offices on 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 report must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly reports must be received in the Board's offices on or before the first day of every third month.

However, you have failed to comply with the requirements of subparagraphs 2(d)(iv) and (vii) set forth above.

Your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "[v]iolation of the conditions placed by the board on a certificate of registration, physician assistant utilization plan, or supervision agreement" as that clause is used in Section 4730.25(B)(20), 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 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/jag
Enclosures

CERTIFIED MAIL # Z 233 896 526
RETURN RECEIPT REQUESTED

cc: Eric J. Plinke, Esq.
Porter Wright Morris & Arthur, LLP
250 East Fifth Street
Cincinnati, Ohio 45202-4199

CERTIFIED MAIL # Z 233 896 527
RETURN RECEIPT REQUESTED



State Medical Board of Ohio

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

February 11, 1998

Donald A. Koehler, P.A.
5862 U.S. Hwy 27
Alexandria, KY 41001

Dear Mr. Koehler:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on February 11, 1998, 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 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

CERTIFIED MAIL RECEIPT NO. Z 233 895 224
RETURN RECEIPT REQUESTED

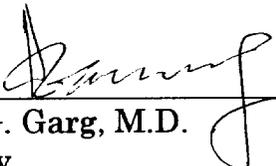
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CERTIFICATION

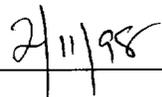
I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on February 11, 1998, including 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 Donald A. Koehler, 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.

(SEAL)



Anand G. Garg, M.D.
Secretary



Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

DONALD A. KOEHLER, P.A.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on February 11, 1998.

Upon the Report and Recommendation of Sharon W. Murphy, 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:

1. The certificate of Mr. Koehler to practice as a physician assistant in the State of Ohio shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Mr. Koehler's certificate is SUSPENDED for an indefinite period of time, but not less than one year. The suspension shall be retroactive to July 9, 1997, the date the Board imposed an immediate suspension of Mr. Koehler's certificate.
2. The State Medical [Board] shall not consider reinstatement of Mr. Koehler's certificate to practice unless all of the following minimum requirements have been met:

In the Matter of Donald A. Koehler, P.A.

Page 2

- a. Mr. Koehler shall submit an application for reinstatement, accompanied by appropriate fees.
- b. Mr. Koehler shall provide the Board with written reports of evaluation by a psychiatrist acceptable to the Board indicating that Mr. Koehler's ability to practice has been assessed and that he has been found capable of practicing in accordance with acceptable and prevailing standards of care. The report shall describe with particularity the bases for this determination, shall address the current status of Mr. Koehler's depression, and shall set forth any recommended treatment for Mr. Koehler and/or recommended limitations on his practice. Mr. Koehler shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended treatment, if any, on a quarterly basis, or as otherwise directed by the Board.
- c. Within thirty (30) days of the effective date of this Order, Mr. Koehler shall submit to the Board for its prior approval the name of a supervising physician to whom Mr. Koehler shall submit urine specimens as required in paragraph 2(d)(vii), below. The supervising physician shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the Board of any positive screening results.

{Note: For purposed of this Order, the supervising physician is not necessarily a physician identified in the physician assistant utilization plan under which Mr. Koehler may be employed.]

- d. For the duration of the suspension period:
 - i. Mr. Koehler shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has

In the Matter of Donald A. Koehler, P.A.

Page 3

full knowledge of Mr. Koehler's history of chemical dependency.

- ii. Mr. Koehler shall abstain completely from the use of alcohol.
- iii. Mr. Koehler shall provide satisfactory quarterly documentation of continuous participation in a drug and alcohol rehabilitation program, such as AA, NA, or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.
- iv. Mr. Koehler shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended psychiatric treatment, if any, pursuant to paragraph 2(b), above, on a quarterly basis, or as otherwise directed by the Board.
- v. Mr. Koehler shall participate in counseling with a treatment provider approved by the Board, at such intervals as are deemed appropriate by the treatment provider, but not less than twice monthly. The sessions shall be in person and may not be conducted by telephone or other electronic means.
- vii. Mr. Koehler shall submit to random urine screenings for drugs and/or alcohol on a random basis at least three times per week, or as otherwise directed by the Board. Mr. Koehler shall submit the urine specimens to the supervising physician approved by the Board pursuant to paragraph 2(c), above. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Mr. Koehler shall ensure that the supervising physician provides quarterly reports to the Board, on forms approved or provided by the Board, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the

supervising physician remains willing and able to continue in his responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Mr. Koehler must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Mr. Koehler shall further ensure that the previously designated supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor.

The first quarterly report must be received in the Board's offices on 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 report must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly reports must be received in the Board's offices on or before the first day of every third month.

- viii. Mr. Koehler shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment providers, counselors, or supervising physicians to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for them to fulfill their respective duties and obligations.
- e. In the event that Mr. Koehler 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 4730.28, Ohio Revised Code, to require additional evidence of his fitness to resume practice.

3. Upon reinstatement, Mr. Koehler's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of five years:
 - a. Mr. Koehler 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. Koehler shall obey all federal, state, and local laws, and all rules governing the practice of a physician assistant in Ohio.
 - c. Mr. Koehler 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 the first day of the third month following the month in which the probation becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on 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.
 - d. Mr. Koehler shall appear in person for interviews before the full Board or its designated representative within three months of the reinstatement of his certificate and at three month intervals thereafter, 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. Koehler'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. Koehler shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

- e. Mr. Koehler shall submit to random urine screenings for drugs and/or alcohol on a twice weekly basis or as otherwise directed by the Board. Mr. Koehler shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

The supervising physician approved by the Board prior to reinstatement, pursuant to paragraph 2(c), above, shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the Board of any positive screening results.

Mr. Koehler shall ensure that the supervising physician provides quarterly reports to the Board, on forms approved or provided by the Board, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Mr. Koehler must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Mr. Koehler shall further ensure that the previously designated supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Mr. Koehler's quarterly declaration. It is Mr. Koehler's responsibility to ensure that reports are timely submitted.

- f. Mr. Koehler shall submit blood and/or urine specimens for analysis without prior notice at such times as the Board may request, at Mr. Koehler's expense.
- g. Mr. Koehler shall maintain participation in an alcohol and drug rehabilitation program, such as AA or NA, no less than three times per week. Substitution of any other specific program must receive prior Board approval. In addition, at his appearances before the Board or its designated representative, Mr. Koehler shall submit acceptable documentary evidence of continuing compliance with this program.
- h. Mr. Koehler shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended psychiatric treatment, if any, pursuant to paragraph 2(b), above, on a quarterly basis, or as otherwise directed by the Board.
- i. Mr. Koehler shall continue counseling with the treatment provider approved by the Board, pursuant to paragraph 2(d)(v), above, at such intervals as are deemed appropriate by the treatment provider, but not less than twice monthly. The sessions shall be in person and may not be conducted by telephone or other electronic means.

Mr. Koehler shall continue in counseling until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require quarterly reports from the approved treatment provider. Mr. Koehler shall ensure that reports are forwarded by the treatment provider to the Board on a quarterly basis, or as otherwise directed by the Board. It is Mr. Koehler's responsibility to ensure that the quarterly reports are received in the Board's offices no later than the due date for Mr. Koehler's quarterly declaration.

- j. Mr. Koehler shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment

providers, counselor, and supervising physicians to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for them to fulfill their respective duties and obligations.

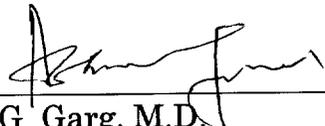
- k. If, without permission from the Board, Mr. Koehler fails to submit to random screenings for drugs and or alcohol, at least as frequently as required by paragraph 3(e), above, Mr. Koehler shall cease practicing as a physician assistant beginning the day following Mr. Koehler's receiving notice from the Board of the violation and shall refrain from practicing as a physician assistant for thirty (30) days. Practice during this time period shall be considered unlicensed practice in violation of Section 4730.02, Ohio Revised Code.
- l. Within thirty (30) days of the reinstatement of his certificate, Mr. Koehler shall provide a copy of this Order to all employers or entities with which he is under contract to provide physician assistant services, and the Chief of Staff at each hospital where Mr. Koehler has privileges or appointments. Further, Mr. Koehler shall provide a copy of this Order to all employers or entities with which he contracts to provide physician assistant services, or applies for or receives training, and the Chief of Staff at each hospital where Mr. Koehler applies for or obtains privileges or appointments.
- m. In the event that Mr. Koehler should leave Ohio for three consecutive months, or reside or practice outside the State, Mr. Koehler 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 probationary monitoring is otherwise being performed.

In the Matter of Donald A. Koehler, P.A.
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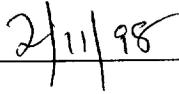
- n. If Mr. Koehler violates probation in any respect, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period.
 - o. If Mr. Koehler violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of Mr. Koehler's certificate.
4. Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Koehler's certificate will be fully restored.

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

(SEAL)



Anand G. Garg, M.D.
Secretary



Date

98 JAN 16 PM 3:04

**REPORT AND RECOMMENDATION
IN THE MATTER OF DONALD A. KOEHLER, P.A.**

The Matter of Donald A. Koehler, P.A., was heard by Sharon W. Murphy, Attorney Hearing Examiner for the State Medical Board of Ohio, on December 18, 1997.

INTRODUCTION

I. Basis for Hearing

- A. In the Notice of Immediate Suspension and Opportunity for Hearing, dated July 9, 1997, the Board notified Donald A. Koehler, P.A., that, pursuant to Section 3719.121(C), Ohio Revised Code, the Board had immediately suspended his certificate of registration as a Physician Assistant in the State of Ohio. This action was based on Mr. Koehler's December 19, 1996, guilty plea to two felony counts of theft of drugs in violation of Section 2913.02, Ohio Revised Code. In addition, the Board cited Mr. Koehler's acts which led to the conviction and the fact that the Court had granted Mr. Koehler treatment in lieu of conviction pursuant to Section 2951.041, Ohio Revised Code. Furthermore, the Board notified Mr. Koehler that continued practice as a physician assistant would be considered practicing as a physician assistant without a certificate of registration in violation of Section 4730.02, Ohio Revised Code.

The Board alleged that Mr. Koehler's acts underlying the judicial finding of eligibility for treatment in lieu of conviction 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, [and] '(i)mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice,' as that clause is used in Section 4730.25(B)(5), Ohio Revised Code."

In addition, the Board notified Mr. Koehler of his right to request a hearing in this Matter. (State's Exhibit 1).

- B. Mr. Koehler submitted a written hearing request on August 7, 1997. (State's Exhibit 2).

II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Anne B. Strait, Assistant Attorney General.
- B. On behalf of the Respondent: Mr. Koehler, having been apprised of his right to be represented by counsel, appeared on his own behalf.

EVIDENCE EXAMINED

I. Testimony Heard

- A. Presented by the State
 - 1. Police Specialist Dennis Luken
 - 2. Donald A. Koehler, P.A. (as on cross-examination).
- B. Presented by Respondent
Donald A. Koehler, P.A.

II. Exhibits Presented

In addition to State's Exhibits 1 and 2, noted above, the following exhibits were identified and admitted into evidence:

- A. Presented by the State
 - 1. State's Exhibit 3: Copy of a September 10, 1997, letter to Mr. Koehler from the Board enclosing a certified copy of a Findings, Order and Journal Entry. (9 pp.)
 - 2. State's Exhibit 4: Copy of an October 23, 1997, Entry vacating the September 10, 1997, Findings, Order and Journal Entry.
 - 3. State's Exhibit 5: Copy of a November 10, 1997, letter to Mr. Koehler from the Board scheduling the hearing for December 18, 1997. (2 pp.)

ST. ELIZABETH MEDICAL CENTER

98 JAN 16 PM 3:04

4. State's Exhibit 6: Copy of a November 20, 1997, Notice of Appearance of Counsel for the State.
5. State's Exhibit 7: Copy of a December 4, 1997, State's Request for Issuance of Subpoena. (3 pp.)
6. State's Exhibit 8: Copy of the Prosecutor's Reporting Form filed with the Board on June 16, 1997. (2 pp.)
7. State's Exhibit 9: Copies of documents filed in the Hamilton County Court of Common Pleas, in *State of Ohio v. Donald A. Koehler, II*, Case No. B9607435. (12 pp.) (Note: Pages numbered by Attorney Hearing Examiner).
8. State's Exhibit 10: Copy of a list of prescription drugs recovered from Mr. Koehler on September 6, 1996, with an attached laboratory analysis report. (3 pp.)
9. State's Exhibit 11: Audio tape of a September 19, 1996, interview of Mr. Koehler by Police Specialist Dennis Luken. (Note: this exhibit will be kept in the Board offices for review by Board members.)
10. State's Exhibit 12: December 16, 1997, Entry reassigning this matter to Sharon W. Murphy.

B. Presented by the Respondent

1. Respondent's Exhibit A: Copy of an undated letter to the Board from Mr. Koehler requesting hearing, with attached documents including aftercare reports, a curriculum vitae, professional certificates, and an agreement between Mr. Koehler and his employer. (19 pp.) (Note: Pages numbered by Attorney Hearing Examiner).
2. Respondent's Exhibit B: A letter from Mr. Koehler received by the Board on December 15, 199[7], with attached letter from Peter J. Ganshirt, Psy.D., Clinical Supervisor, St. Elizabeth Medical Center Chemical Dependency Programs, regarding Mr. Koehler. (3 pp.)
3. Respondent's Exhibit C: Copy of a November 18, 1997, letter to the Board from Dave Pauly, Supervisor, Good Samaritan Hospital regarding Mr. Koehler's employment status.

4. Respondent's Exhibit D: Copy of a certificate from the National Commission on Certification of Physician Assistants issued to Donald Andrew Koehler, II.
5. Respondent's Exhibit E: Laboratory reports pertaining to drug screens for Mr. Koehler. (36 pp.)
6. Respondent's Exhibits F-H: Not admitted to the record. [See Procedural Matters, below].

PROCEDURAL MATTERS

At hearing, the Hearing Examiner requested that Mr. Koehler provide copies of his treatment records and a copy of the judgment entry dismissing the felony charges against him. Mr. Koehler readily agreed, and signed a release for the medical records. The State agreed to file a records subpoena with the assistance of Board staff. The exhibits were to be identified and admitted as Respondent's Exhibits F through H. The hearing record was held open pending receipt of the records. (Tr. at 55-56).

On January 14, 1998, Board staff advised the Hearing Examiner that the subpoenas had not been issued. Accordingly, in fairness to Respondent, whose certificate has been suspended since July, and who fully cooperated in the process for obtaining the records, the Hearing Examiner has determined that submission of the records will not be necessary. Accordingly, the hearing record closed on January 14, 1998, and Respondent's Exhibits F through H were not included in the record.

SUMMARY OF THE EVIDENCE

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

1. Donald A. Koehler, P.A., graduated from the University of Kentucky with a Bachelor of Health Science, Physician Assistant, in 1992. He is certified by the National Commission on Certification of Physician Assistants. (Respondent's Exhibit [Resp. Ex.] A at 7-11; Resp. Ex. D).

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2. Mr. Koehler testified that, immediately after graduation from the University of Kentucky, he began working part time for a physician in Cincinnati. In Dr. Kunkle's office, Mr. Koehler had access to samples of narcotics. Mr. Koehler started to take Vicodin for headaches and stress. Retrospectively, Mr. Koehler recognized that he had also been suffering from depression. After a short time, Mr. Koehler realized he was developing tolerance to the narcotic medication and stopped using it. He did not use narcotics for the next several years due to his hectic schedule and a lack of access to narcotics. (Transcript [Tr.] at 7, 26-31; State's Exhibit [St. Ex.] 11).

In December 1994, Mr. Koehler accepted a position in the surgical department at Good Samaritan Hospital in Cincinnati. That position required that he take call three nights per week and every other weekend. Mr. Koehler testified that because of the stress and long hours, he started using narcotics again. He obtained medications from family members and friends, and used the drugs in the evening to "wind down" or sleep. He also acknowledged that he had been suffering from depression at that time, and sought help from his family physician and from a psychologist. (St. Ex. 11).

During a subsequent interview with the Cincinnati Police Department, Mr. Koehler stated that in 1995, he had accepted a position with an orthopedic practice. He stated that the orthopedic practice provided a ready access to narcotic and pain medication, and within 4 to 6 weeks he was using again. Mr. Koehler consulted his psychologist who referred him to a psychiatrist. He also took a medical leave of absence from his position. Mr. Koehler did not return to the orthopedic practice because he realized that he would not be able to control his use of narcotics. Accordingly, Mr. Koehler stated that returned to Good Samaritan Hospital. (Tr. at 6-7; St. Ex. 11).

At hearing, however, Mr. Koehler testified that he started working at Good Samaritan Hospital in December 1994, and worked there until the time of his suspension in 1997. He did not mention employment with an orthopedic practice. Moreover, he testified that he did not start using drugs again until February 1996, when Mr. Koehler was experiencing family, relationship and financial problems. Mr. Koehler stated that he continued using drugs, sporadically, until the incident in September 1996. (Tr. at 34-35).

Mr. Koehler testified at hearing that he saw a psychologist, Sanford L. Chertock, Ph.D., on three occasions in 1995. Mr. Koehler stated that, at that time, he had been too "closed-minded" to benefit from the experience. Subsequently, in June or July, 1996, Mr. Koehler reinitiated treatment with

Dr. Chertock. In addition, Mr. Koehler's family physician started prescribing Paxil for depression and Ambien for sleep. (Tr. at 36-37).

In September 1996, Mr. Koehler covered for another PA at the hospital's Glenway Medical Office, a pre-admission testing facility. While at the Glenway Medical Office, Mr. Koehler broke into a medication cabinet in which controlled substances were stored. Mr. Koehler removed a bottle of hydrocodone, a bottle of flurazepam, and a bottle of Effexor. Mr. Koehler stated that he took approximately six to eight tablets of medication when he returned to his home that evening. He has little or no memory of the events of the following three to four days. He assumes he took a significant quantity of medication during that period. Mr. Koehler testified that one week after the theft, detectives came to search the house. (Tr. at 8, 39-42; St. Exs. 2, 11; Resp. Exs. A, B).

3. Dennis Luken, Police Specialist for the Cincinnati Police Division, Pharmaceutical Diversion, testified at hearing on behalf of the State. Spec. Luken testified that on September 6, 1996, his office was contacted by Bethesda Oak Hospital [Tri-Health, Inc.]. Bethesda Oak Security advised that drugs had been taken from a cart at a satellite hospital at Glenway Avenue. Moreover, a search of the premises suggested that the medications had been taken by Mr. Koehler. (Tr. at 15-17, 19-20).

Officer Luken and other detectives went to Mr. Koehler's home to interview him. When Mr. Koehler came to the door, it was apparent that he was impaired, and he was having difficulty standing. The officers explained to Mr. Koehler that they were investigating the missing drugs, and Mr. Koehler admitted that he had taken them. He led the detectives into the residence and produced the medications. Mr. Koehler then allowed a thorough search of his home. The search revealed various drugs and drug paraphernalia, which included the following:

- a. 364 tablets of Percocet;
- b. 91 tablets of Fiorinal with codeine;
- c. 96 tablets of Ambien, 5 mg.;
- d. 79 tablets of Ambien, 10 mg.;
- e. 5 vials of hydroxyzine;
- f. 2 ampules of Phenergan;
- g. 1 ampule of promethazine; and
- h. 77 tablets of Premarin [possibly taken for his mother]

(Tr. at 17-19, 56-58; St. Ex. 10).

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On September 19, 1996, Mr. Koehler appeared at the Cincinnati Police Department to be interviewed by Spec. Luken. Spec. Luken testified that Mr. Koehler was honest and cooperative at all times during the investigation. Moreover, Mr. Koehler voluntarily produced an additional bottle of controlled substances which he discovered after the police officers had searched his home. (Tr. at 19-23; St. Ex. 11).

4. On October 8, 1996, in *State of Ohio v. Donald a. Koehler, II*, Case No. B9607435, the Hamilton County grand jury returned an Indictment against Mr. Koehler for two charges of theft of drugs, in violation of Section 2913.02(A)(2), Ohio Revised Code. The indictment alleged that Mr. Koehler had illegally obtained Percocet and Fiorinal with codeine belonging to Tri-Health, Inc. (St. Ex. 9 at 2-3).
5. After the detectives searched his home, Mr. Koehler admitted himself to a seven day detoxification program at the Bethesda Alcohol and Drug Treatment Center. Thereafter, he participated in an intensive outpatient treatment program. The program ran three nights per week, three hours per night, for eight weeks. After completing that program, Mr. Koehler continued in a one year outpatient program. (Tr. at 8-9, 42-46; St. Exs. 2, 11; Resp. Ex. A).

On October 31, 1996, Mr. Koehler filed a motion for treatment in lieu of conviction. In the motion, Mr. Koehler admitted that he had been drug dependent and addicted to "pain killers." (St. Ex. 9 at 6-7). On December 19, 1996, the Court filed an Entry finding Mr. Koehler eligible for treatment in lieu of conviction, staying the criminal proceedings, and ordering rehabilitation pursuant to Section 2951.041, Ohio Revised Code. The Court required that Mr. Koehler receive drug treatment and report bi-weekly to the Hamilton County Probation Department. (St. Ex. 9 at 11-12; Resp. Ex. A at 6). At hearing, Mr. Koehler testified that on December 15, 1997, the Court dismissed the felony charges against him because he had successfully completed his probationary requirements. (Tr. at 10).

6. On October 15, 1996, Mr. Koehler entered into a Conditional Reinstatement Agreement with Good Samaritan Hospital. In the agreement, Mr. Koehler acknowledged that his misconduct justified his termination by the hospital. Nevertheless, the hospital agreed to reinstate Mr. Koehler under certain terms and conditions, which included the following:
 - a. Mr. Koehler agreed to abstain from the use of illicit drugs.
 - b. Mr. Koehler agreed to periodic drug and alcohol testing.

- c. Mr. Koehler agreed that the hospital could communicate with the Board and with the Hamilton County Probation Department regarding him.
- d. Mr. Koehler agreed to be evaluated by the hospital's employee assistance program and to comply with any recommendations, including:
 - i. compliance with a chemical dependency treatment program;
 - ii. attendance at two Alcoholics Anonymous or Narcotics Anonymous meetings per week;
 - iii. participation in psychotherapy and medication management; and
 - iv. participation in the hospital's employee assistance program for at least six months.
- e. Finally, Mr. Koehler acknowledged that any breach of the conditions of the agreement would result in his termination from the hospital.

(Tr. at 9; Resp. Ex. A at 12-14).

- 7. On June 16, 1997, the Hamilton County Prosecutor's Office notified the Board that Mr. Koehler had pleaded guilty to two counts of theft. (St. Ex. 8). On July 9, 1997, the Board suspended Mr. Koehler's certificate of registration as a PA. He was also suspended from his position at Good Samaritan Hospital. (Tr. at 9; St. Ex. 1).

Mr. Koehler testified that things had been going well for him prior to the suspension. He had received a promotion at Good Samaritan Hospital, so that he now served only in the operating suite. Therefore, he did not have access to drugs as he did at the Glenway Center or in the Emergency Department. (Tr. at 10).

- 8. On March 13, 1997, Cindy Swain, Counselor for the hospital's employee assistance program, noted that Mr. Koehler had been referred to the program after the theft of narcotic medication. At that time, Ms. Swain reported that Mr. Koehler had successfully completed the intensive phase at St. Elizabeth Medical Center Outpatient Recovery Program and was actively participating in the aftercare program. In addition, Ms. Swain reported that all of Mr. Koehler's drug screens had been negative. On June 9, 1997, however, Ms. Swain reported that Mr. Koehler had had inconsistent attendance with his aftercare program

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and with his individual therapist. Ms. Swain advised that Mr. Koehler's father had been suffering from a terminal illness. (Resp. Ex. A at 4-5; Resp. Ex. E).

On November 6, 1997, Dr. Chertock, Mr. Koehler's psychologist, advised that he had seen Mr. Koehler on three occasions in 1995 for treatment of dysthymic disorder. In November 1995, Mr. Koehler missed an appointment and did not resume treatment until June 25, 1996. At that time, Mr. Koehler continued to demonstrate symptoms of depression, which Mr. Koehler's family physician had been treating with an anti-depressant. Mr. Koehler continued treatment with Dr. Chertock through June 1997, although he missed appointments in July and August 1997. Mr. Koehler again resumed treatment for periodic depression in September 1997, and had been seen regularly since that time. Dr. Chertock advised that Mr. Koehler "is no longer inappropriately using medication and continues to function appropriately." (Resp. Ex. B at 3).

On November 11, 1997, Mr. Koehler's aftercare therapists advised that, after completing his inpatient treatment program in November 1996, Mr. Koehler joined a one year aftercare program. Although the program encouraged weekly attendance at an aftercare group meeting, in addition to a weekly 12-Step program meeting, Mr. Koehler had participated only inconsistently in the aftercare group meeting. (Resp. Ex. B at 2).

9. Mr. Koehler testified that he has been taking Zoloft rather than Paxil as an anti-depressant. He stated that the Zoloft has helped him considerably. (Tr. at 38-39). Regarding his depression, Mr. Koehler stated that

In retrospect, I didn't realize how bad it was until I felt better. Now that I've been taking the Zoloft . . . it's like night and day. I can't believe I felt that bad and didn't get more help than I did. It's a tough thing to deal with. It's very difficult, losing control.

(Tr. at 62).

10. On November 18, 1997, Dave Pauly, Mr. Koehler's supervisor at Good Samaritan Hospital advised the Board that, prior to his suspension, Mr. Koehler had been "an outstanding employee." He further advised that he "would, without question, attempt to rehire [Mr. Koehler] when he regains his license." (Resp. Ex. C). Mr. Koehler testified that if he is able to return to Good Samaritan Hospital, he will be required to abide by the terms of the conditional agreement he signed. (Tr. at 48).

FINDINGS OF FACT

1. On or about September 6, 1996, Donald A. Koehler, P.A., removed three bottles of controlled medications from a locked cabinet at the medical facility where he worked. The medications were hydrocodone, flurazepam, and Effexor. He took the controlled drugs for his personal consumption.
2. Mr. Koehler admitted that he had illegally obtained, for his personal use, the following drugs which were discovered during a search of his home by the Cincinnati Police Department:
 - a. 364 tablets of Percocet
 - b. 91 tablets of Fiorinal with codeine
 - c. 96 tablets of Ambien, 5 mg.
 - d. 79 tablets of Ambien, 10 mg
 - e. 77 tablets of Premarin
 - f. 5 vials of hydroxyzine
 - g. 2 ampules of Phenergan
 - h. 1 ampule of promethazine.
3. On October 8, 1996, a grand jury returned an Indictment against Mr. Koehler on two charges of theft of drugs, in violation of Section 2913.02(A)(2), Ohio Revised Code, in *State of Ohio v. Donald A. Koehler, II*, Case No. B9607435, in the Hamilton County Court of Common Pleas

On December 19, 1996, the Court filed an Entry finding Mr. Koehler eligible for treatment in lieu of conviction, staying the criminal proceedings, and ordering rehabilitation pursuant to Section 2951.041, Ohio Revised Code.

On December 15, 1997, the Court found that Mr. Koehler had successfully completed his court-ordered treatment program, and dismissed the felony charges against him.

CONCLUSIONS

1. The actions of Donald A. Koehler, P.A., underlying the judicial finding of eligibility for treatment in lieu of conviction 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 2913.02, Ohio Revised Code, Theft of Drugs.

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2. Mr. Koehler's acts underlying the judicial finding of eligibility for treatment in lieu of conviction constitute "(i)mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," as that clause is used in Section 4730.25(B)(5), Ohio Revised Code.

* * * * *

The evidence demonstrates that Mr. Koehler successfully completed the inpatient treatment program at Bethesda Oaks Hospital and the intensive St. Elizabeth Medical Center Outpatient Recovery Program. Moreover, it is apparent that, for the first few months, Mr. Koehler actively participated in his aftercare program. The evidence further demonstrates, however, that after March 1997 Mr. Koehler only sporadically attended his aftercare program. Additionally, after June 1997, Mr. Koehler missed several appointments with his psychologist, who was treating him for depression. Finally, Mr. Koehler is not required to participate in any aftercare program at this time. Although Mr. Koehler has maintained his sobriety for eighteen months, a more structured recovery program may help assure his continued recovery. Accordingly, this Proposed Order is directed towards supporting Mr. Koehler in his recovery, yet assuring that the public suffers no harm from any future relapse.

PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of Mr. Koehler to practice as a physician assistant in the State of Ohio shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Mr. Koehler's certificate is SUSPENDED for an indefinite period of time, but not less than one year. The suspension shall be retroactive to July 9, 1997, the date the Board imposed an immediate suspension of Mr. Koehler's certificate.
2. The State Medical [Board] shall not consider reinstatement of Mr. Koehler's certificate to practice unless all of the following minimum requirements have been met:
 - a. Mr. Koehler shall submit an application for reinstatement, accompanied by appropriate fees.
 - b. Mr. Koehler shall provide the Board with written reports of evaluation by a psychiatrist acceptable to the Board indicating that Mr. Koehler's ability to practice has been assessed and that he has been found capable of

practicing in accordance with acceptable and prevailing standards of care. The report shall describe with particularity the bases for this determination, shall address the current status of Mr. Koehler's depression, and shall set forth any recommended treatment for Mr. Koehler and/or recommended limitations on his practice. Mr. Koehler shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended treatment, if any, on a quarterly basis, or as otherwise directed by the Board.

- c. Within thirty (30) days of the effective date of this Order, Mr. Koehler shall submit to the Board for its prior approval the name of a supervising physician to whom Mr. Koehler shall submit urine specimens as required in paragraph 2(d)(vii), below. The supervising physician shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the Board of any positive screening results.

{Note: For purposed of this Order, the supervising physician is not necessarily a physician identified in the physician assistant utilization plan under which Mr. Koehler may be employed.]

- d. For the duration of the suspension period:
 - i. Mr. Koehler shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Mr. Koehler's history of chemical dependency.
 - ii. Mr. Koehler shall abstain completely from the use of alcohol.
 - iii. Mr. Koehler shall provide satisfactory quarterly documentation of continuous participation in a drug and alcohol rehabilitation program, such as AA, NA, or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.
 - iv. Mr. Koehler shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended psychiatric treatment, if any, pursuant to paragraph 2(b), above, on a quarterly basis, or as otherwise directed by the Board.

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- v. Mr. Koehler shall participate in counseling with a treatment provider approved by the Board, at such intervals as are deemed appropriate by the treatment provider, but not less than twice monthly. The sessions shall be in person and may not be conducted by telephone or other electronic means.

- vii. Mr. Koehler shall submit to random urine screenings for drugs and/or alcohol on a random basis at least three times per week, or as otherwise directed by the Board. Mr. Koehler shall submit the urine specimens to the supervising physician approved by the Board pursuant to paragraph 2(c), above. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Mr. Koehler shall ensure that the supervising physician provides quarterly reports to the Board, on forms approved or provided by the Board, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Mr. Koehler must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Mr. Koehler shall further ensure that the previously designated supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor.

The first quarterly report must be received in the Board's offices on 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 report must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly reports must be received in the Board's offices on or before the first day of every third month.

- viii. Mr. Koehler shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment providers, counselors, or supervising physicians to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for them to fulfill their respective duties and obligations.

- e. In the event that Mr. Koehler 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 4730.28, Ohio Revised Code, to require additional evidence of his fitness to resume practice.
3. Upon reinstatement, Mr. Koehler's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of five years:
 - a. Mr. Koehler 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. Koehler shall obey all federal, state, and local laws, and all rules governing the practice of a physician assistant in Ohio.
 - c. Mr. Koehler 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 the first day of the third month following the month in which the probation becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on 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.
 - d. Mr. Koehler shall appear in person for interviews before the full Board or its designated representative within three months of the reinstatement of his certificate and at three month intervals thereafter, 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. Koehler'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. Koehler shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

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- e. Mr. Koehler shall submit to random urine screenings for drugs and/or alcohol on a twice weekly basis or as otherwise directed by the Board. Mr. Koehler shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

The supervising physician approved by the Board prior to reinstatement, pursuant to paragraph 2(c), above, shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the Board of any positive screening results.

Mr. Koehler shall ensure that the supervising physician provides quarterly reports to the Board, on forms approved or provided by the Board, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Mr. Koehler must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Mr. Koehler shall further ensure that the previously designated supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Mr. Koehler's quarterly declaration. It is Mr. Koehler's responsibility to ensure that reports are timely submitted.

- f. Mr. Koehler shall submit blood and/or urine specimens for analysis without prior notice at such times as the Board may request, at Mr. Koehler's expense.
- g. Mr. Koehler shall maintain participation in an alcohol and drug rehabilitation program, such as AA or NA, no less than three times per week. Substitution of any other specific program must receive prior Board approval. In addition, at his appearances before the Board or its

designated representative, Mr. Koehler shall submit acceptable documentary evidence of continuing compliance with this program.

- h. Mr. Koehler shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended psychiatric treatment, if any, pursuant to paragraph 2(b), above, on a quarterly basis, or as otherwise directed by the Board.
- i. Mr. Koehler shall continue counseling with the treatment provider approved by the Board, pursuant to paragraph 2(d)(v), above, at such intervals as are deemed appropriate by the treatment provider, but not less than twice monthly. The sessions shall be in person and may not be conducted by telephone or other electronic means.

Mr. Koehler shall continue in counseling until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require quarterly reports from the approved treatment provider. Mr. Koehler shall ensure that reports are forwarded by the treatment provider to the Board on a quarterly basis, or as otherwise directed by the Board. It is Mr. Koehler's responsibility to ensure that the quarterly reports are received in the Board's offices no later than the due date for Mr. Koehler's quarterly declaration.

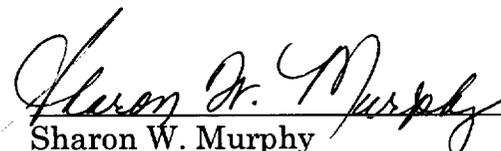
- j. Mr. Koehler shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment providers, counselor, and supervising physicians to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for them to fulfill their respective duties and obligations.
- k. If, without permission from the Board, Mr. Koehler fails to submit to random screenings for drugs and or alcohol, at least as frequently as required by paragraph 3(e), above, Mr. Koehler shall cease practicing as a physician assistant beginning the day following Mr. Koehler's receiving notice from the Board of the violation and shall refrain from practicing as a physician assistant for thirty (30) days. Practice during this time period shall be considered unlicensed practice in violation of Section 4730.02, Ohio Revised Code.
- l. Within thirty (30) days of the reinstatement of his certificate, Mr. Koehler shall provide a copy of this Order to all employers or entities with which he is under contract to provide physician assistant services, and the Chief

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of Staff at each hospital where Mr. Koehler has privileges or appointments. Further, Mr. Koehler shall provide a copy of this Order to all employers or entities with which he contracts to provide physician assistant services, or applies for or receives training, and the Chief of Staff at each hospital where Mr. Koehler applies for or obtains privileges or appointments.

- m. In the event that Mr. Koehler should leave Ohio for three consecutive months, or reside or practice outside the State, Mr. Koehler 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 probationary monitoring is otherwise being performed.
 - n. If Mr. Koehler 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.
 - o. If Mr. Koehler violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of Mr. Koehler's certificate.
4. Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Koehler's certificate will be fully restored.

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


Sharon W. Murphy
Attorney Hearing Examiner



State Medical Board of Ohio

1700 East Broad Street, Columbus, Ohio 43260-1197 • Phone: 614/464-5300 • Website: www.smb.state.oh.us

EXCERPT FROM THE DRAFT MINUTES OF FEBRUARY 11, 1998

REPORTS AND RECOMMENDATIONS

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

Dr. Buchan 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: Ahmad Hosseinipour, M.D.; Kettering Cardiothoracic & Vascular Surgeons, Inc.; Donald A. Koehler, P.A.; and Kolli Prasad, M.D.

A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Egnor	- aye
	Mr. Sinnott	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Buchan	- aye

Dr. Stienecker recused himself from consideration of the Hosseinipour case.

Dr. Garg indicated that he would recuse himself from two cases. He will announce which at the time the Board considers them.

Dr. Buchan 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. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Egnor	- aye
	Mr. Sinnott	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Buchan	- aye

In accordance with the provision in Section 4731.22(C)(1), 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. Buchan 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.

.....
DONALD A. KOEHLER, P.A.
.....

DR. GARG MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF DONALD A. KOEHLER, P.A. DR. HEIDT SECONDED THE MOTION.

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

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Egner	- aye
	Mr. Sinnott	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Buchan	- aye

The motion carried.

BEFORE THE STATE MEDICAL BOARD OF OHIO

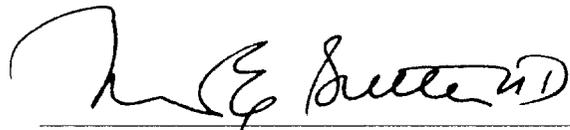
IN THE MATTER OF :
:
DONALD A. KOEHLER, P.A. :

ENTRY

This matter was the subject of a Finding, Order and Journal Entry by the State Medical Board of Ohio on September 10, 1997, after it was determined that Donald A. Koehler, P.A., had failed to timely request a hearing following the Board's issuance of a notice of opportunity for hearing on July 9, 1997. Subsequently, documentation was obtained that confirmed that Mr. Koehler had, in fact, timely filed a request for hearing pursuant to Chapter 119., Ohio Revised Code.

Accordingly, it is hereby ORDERED that the Finding, Order and Journal Entry in the Matter of Donald A. Koehler, P.A., entered by the State Medical Board of Ohio on September 10, 1997 be and is hereby VACATED, and that this matter be set for hearing expeditiously.

So ORDERED this 23rd day of September, 1997.



Thomas E. Gretter, M.D.
Secretary

10/23/97

Date



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614)466-3934

September 10, 1997

Donald A. Koehler, P.A.
49 Paul Lane
Alexandria, KY 41001

Dear Mr. Koehler:

Please find enclosed a certified copy of the Findings, Order and Journal Entry approved and confirmed by the State Medical Board meeting in regular session on September 10, 1997.

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 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 of the Ohio Revised Code.

Very truly yours,

Thomas E. Gretter, M.D.
Secretary

TEG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. Z 395 587 621
RETURN RECEIPT REQUESTED

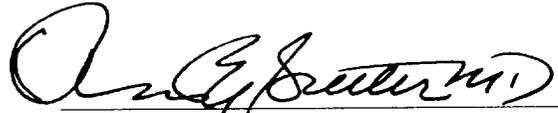
mailed 9/11/97

CERTIFICATION

I hereby certify that the attached copy of the Findings, Order and Journal Entry, approved by the State Medical Board, meeting in regular session on September 10, 1997, constitute a true and complete copy of the Findings, Order and Journal Entry in the matter of Donald A. Koehler, 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.

(SEAL)



Thomas E. Gretter, M.D.
Secretary

9/11/97

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

DONALD A. KOEHLER, P.A.

*

FINDINGS, ORDER AND JOURNAL ENTRY

This matter came on for consideration after a citation letter was mailed to Donald A. Koehler, P.A., by the State Medical Board of Ohio on July 10, 1997.

By letter dated July 9, 1997, notice was given to Donald A. Koehler, P.A., that the State Medical Board intended to consider disciplinary action regarding his certificate of registration to practice as a physician assistant in 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 last known address of Donald A. Koehler, P.A., that being 5862 U.S. 27, Alexandria, KY, 41001. A duplicate mailing was simultaneously sent to Mr. Koehler at 49 Paul Lane, Alexandria, KY, 41001. A signed certified mail receipt documenting successful service at the latter address was received in the Board offices on July 17, 1997.

No hearing request has been received from Donald A. Koehler, P.A., and more than thirty (30) days have now elapsed since the mailing of the aforesaid notices.

WHEREFORE, for the reasons outlined in the July 9, 1997 letter of notice, which is attached hereto and incorporated herein, it is hereby ORDERED that the certificate of registration to practice as a physician assistant in Ohio of Donald A. Koehler, P.A., 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 10th day of SEPTEMBER, 1997, and the original thereof shall be kept with said Journal.



Thomas E. Gretter, M.D.
Secretary

(SEAL)

9/10/97
Date

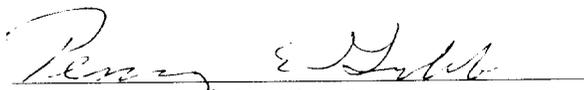
AFFIDAVIT

I, Penny E. Grubb, 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 of Licensure;
- 3) That in such position I am the responsible custodian of all licensure application 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 licensing records of the Board pertaining to Donald A. Koehler, P.A.;
- 5) That based on such examination, I have found the last known address of record of Donald A. Koehler, P.A., to be:

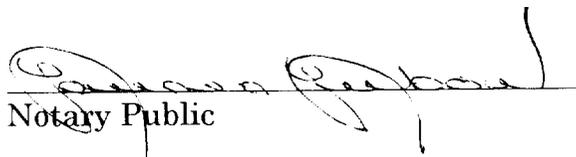
5862 U.S. 27
Alexandria, KY 41101

- 6) Further, Affiant Sayeth Naught.



Penny E. Grubb, Chief
Licensure

Sworn to and signed before me, Lauren Lubow, Notary Public, this 28th day of August, 1997



Notary Public

LAUREN LUBOW, Attorney At L.
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date
Section 147.03 R.C.



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3931

NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING

July 9, 1997

Donald A. Koehler, Physician Assistant
5862 US 27
Alexandria, KY 41001

Dear Mr. Koehler:

In accordance with Sections 2929.24 and 3719.12, Ohio Revised Code, the Office of the Prosecuting Attorney of Hamilton County, Ohio reported that on or about December 19, 1996, the Hamilton County Court of Common Pleas found you Eligible for Treatment in Lieu of Conviction for two violations of Section 2913.02, Ohio Revised Code, Theft of Drugs, pursuant to Section 2951.041, 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 in the State of Ohio is immediately suspended. Continued practice after this suspension shall be considered practicing as a physician assistant without a certificate of registration 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, 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) On or about December 19, 1996, in the Hamilton County Court of Common Pleas, you pleaded guilty to two felony counts of Theft of Drugs, to wit: Percocet and Fiorinal with codeine, in violation of Section 2913.02, Ohio Revised Code, and were granted Treatment in Lieu of Conviction pursuant to Section 2951.041, Ohio Revised Code.

The acts underlying your guilty pleas included the theft of multiple quantities of controlled substances from your employer, including, but not limited to, Percocet, a Schedule II drug, Fiorinal with codeine, a Schedule III drug, and other drugs of abuse and associated drug paraphernalia.

Mailed 7/14/97

- (2) Moreover, in order to grant your request for Treatment in Lieu of Conviction, the Court was required by statute to find that your "drug dependence was a factor leading to the criminal activity with which (you were) charged, and rehabilitation through treatment would substantially reduce the likelihood of additional criminal activity."

The acts, conduct, and/or omissions underlying this judicial finding of Eligibility for Treatment in Lieu of Conviction for the violations of Section 2913.02, Ohio Revised Code, Theft of Drugs, as alleged in paragraph (1) 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 2913.02, Ohio Revised Code, Theft of Drugs.

Further, the acts, conduct, and/or omissions underlying this judicial finding of Eligibility for Treatment in Lieu of Conviction for the violations of Section 2913.02, Ohio Revised Code, Theft of Drugs, as alleged in paragraphs (1) and (2) above, individually and/or collectively, constitute "(i)mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," as that clause is used in Section 4730.25(B)(5), Ohio Revised Code.

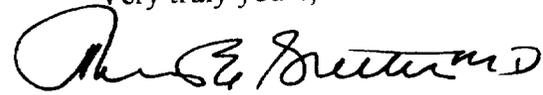
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

You are further advised that 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, suspend, refuse to register or reinstate your certificate of registration as a Physician Assistant or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Thomas E. Gretter, M.D.
Secretary

TEG/dkt
Enclosures

CERTIFIED MAIL # P152 984 719
RETURN RECEIPT REQUESTED

Duplicate mailing to:
49 Paul Lane
Alexandria, KY 41001

CERTIFIED MAIL # P152 984 720
RETURN RECEIPT REQUESTED