



# State Medical Board of Ohio

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

January 12, 2000

Jeffrey Burwell, P.A.  
18155 State Route 161  
Plain City, Ohio 43064

Dear Mr. Burwell:

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 January 12, 2000.

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,

Anand G. Garg, M.D.  
Secretary

AGG:jam  
Enclosures

CERTIFIED MAIL RECEIPT NO. Z 233 896 667  
RETURN RECEIPT REQUESTED

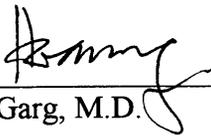
*Mailed 1/13/00*

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 January 12, 2000, constitute a true and complete copy of the Findings, Order and Journal Entry in the Matter of Jeffrey Burwell, 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)

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

JANUARY 12, 2000  
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

JEFFREY BURWELL, P.A.

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FINDINGS, ORDER AND JOURNAL ENTRY

By letter dated November 17, 1999, notice was given to Jeffrey Burwell, 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 November 18, 1999, via certified mail, return receipt requested, to the address of record of Mr. Burwell, that being 18155 State Route 161, Plain City, Ohio 43064.

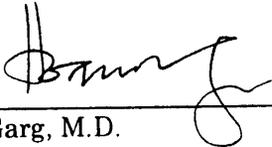
The Medical Board's records reflect that appropriate service of the Notice was obtained. However, no request for hearing has been received, and more than thirty (30) days have elapsed since the mailing of the aforesaid Notice.

WHEREFORE, for the reasons outlined in the letter of Notice of Opportunity for Hearing, which is attached hereto and incorporated herein, it is hereby ORDERED that the certification of registration of Jeffrey Burwell, P.A., to practice as a physician assistant in the State of Ohio be PERMANENTLY REVOKED.

This Order shall become effective IMMEDIATELY.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 12TH day of JANUARY 2000, and the original thereof shall be kept with said Journal.

(SEAL)

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

JANUARY 12, 2000  
\_\_\_\_\_  
Date



# State Medical Board of Ohio

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

November 17, 1999

Jeffrey Burwell, P.A.  
18155 State Route 161  
Plain City, Ohio 43064

Dear Mr. Burwell:

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) On or about February 12, 1997, the State Medical Board of Ohio ratified a Consent Agreement with you in lieu of formal proceedings based upon your violation of Sections 4730.25(B)(5) and (B)(18), Ohio Revised Code. A copy of the Consent Agreement is attached hereto and incorporated herein.

In this Consent Agreement, you made certain admissions, including that you suffered from opiate dependence, barbiturate dependence, and alcohol dependence; that in or about March 1994 you entered an intensive outpatient program at New Life Recovery Center in Ludington, Michigan, for five weeks of the program before moving to a new area; that from in or about May 1994 until in or about November of 1994 you attended individual therapy at Port Huron Hospital in Port Huron, Michigan; and that you participated in individual therapy sessions at the River District Counseling Center in Clare, Michigan, from in or about February 1995 through in or about July 1995, when you were discharged.

Also therein, the Board agreed to issue to you a certificate of registration as a physician assistant, and you agreed with the Board to certain specified probationary terms, conditions, and limitations for a minimum of two (2) years.

- (2) On or about October 8, 1997, the Board issued to you a Notice of Summary Suspension and Opportunity for Hearing alleging violations of Sections 4730.25(B)(5) and (B)(20), Ohio Revised Code, regarding your admitted relapse of your chemical dependency by your use of alcohol.

*Mailed 11/18/99*

Thereafter, on or about April 8, 1998, the Board entered an Order [the April 1998 Order] permanently revoking your certificate and staying such revocation, and suspending your certificate for an indefinite period of time but not less than three (3) years. For the duration of the suspension period, you are subject to certain terms, conditions, and limitations. The stayed revocation and suspension were based upon the Board's findings that you violated Sections 4730.25(B)(5) and (B)(20), Ohio Revised Code. A copy of the April 1998 Order is attached hereto and fully incorporated herein.

- (3) On or about April 13, 1999, you signed a Consent Agreement and Order with the Pennsylvania Board of Medicine [Pennsylvania Board], which became effective July 27, 1999. You consented to the entry of an Order which stated that you had violated the Pennsylvania Medical Practices Act in that you failed to comply with the terms of your July 28, 1998, Consent Agreement and Order with the Pennsylvania Board; and you voluntarily surrendered your license to practice as a physician assistant in the state of Pennsylvania. A copy of the July 1999 Consent Agreement and Order is attached hereto and fully incorporated herein.
- (4) On or about April 27, 1999, the Michigan Task Force on Physician's Assistants Disciplinary Subcommittee [Michigan Board] issued a Final Order against you, suspending your license to practice as a physician's assistant in the State of Michigan for a minimum period of six months and one day. Said Final Order was based upon your violation of your July 22, 1996, Final Order with the Michigan Board; and your failure to report your April 1998 Order from the State Medical Board of Ohio to the Michigan Board. A copy of the April 1999 Final Order is attached hereto and fully incorporated herein.
- (5) You have failed to comply with the terms of your April 1998 Order as follows:
  - (a) Paragraph (2)(b)(vi) of the April 1998 Order states that you "shall submit to random urine screenings for drugs and alcohol on a random basis at least three times per week, or as otherwise directed by the Board." It further states that you "shall ensure that the supervising physician provides quarterly reports to 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."

However, your supervising physician has failed to provide the above-mentioned quarterly reports since at least September 15, 1998. Further, on or before April 1, 1999, you admitted to Board staff that you would no longer be submitting to urine screenings.

- (b) Paragraph (2)(b)(vii) of the April 1998 Order states that you “shall provide satisfactory quarterly documentation of continuous participation in a drug and alcohol rehabilitation program, ...”

However, you have failed to provide such documentation since at least October 1, 1998.

- (c) Paragraph (2)(b)(ix) of the April 1998 Order states that you “shall comply with all terms, conditions, and limitations imposed by the Pennsylvania State Board of Medicine and the Michigan Bureau of Occupational and Professional Regulation.”

However, as set forth in paragraph (3) above, in the July 1999 Consent Agreement and Order you consented to an entry of an order stating that you failed to comply with the probationary terms that were imposed on your Pennsylvania License. Further, as set forth in paragraph (4) above, in April 1999 the Michigan Board issued a Final Order based upon your failure to comply with the probationary terms imposed on your Michigan license.

- (d) Paragraph (2)(b)(x) of this Order states that you “shall notify this Board of any action in any state taken against a certificate of registration as a physician assistant held by you in that state.”

However, you failed to notify the Board that the Michigan Board summarily suspended your Michigan license on or about May 26, 1998. A copy of the summary suspension is attached hereto and fully incorporated herein. Further, you failed to notify the Board of the April 27, 1999, Final Order issued by the Michigan Board, set forth in paragraph (4) above. Further, you failed to notify the Board of the July 27, 1999, Consent Agreement and Order into which you entered with the Pennsylvania Board, set forth in paragraph (3) above.

- (e) Paragraph (2)(b)(xi) of this Order states that you “shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the terms and conditions imposed by this Board, the Pennsylvania Board, the Michigan Board, or any other state medical board.”

However, you have failed to submit said declaration to the Board since October 1, 1998.

- (f) Paragraph (2)(b)(xii) of this Order states that you “shall immediately notify the Board in writing of any modification or change to any term, condition, or limitation imposed by the Pennsylvania Board, the Michigan Board, or any other state medical board.”

However, you failed to notify the Board of any of the actions as set forth in paragraphs (3), (4), (5)(c) and (5)(d), above.

Your acts, conduct, and/or omissions as alleged in paragraphs (3) and (4) above, individually and/or collectively, constitute “[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.

Further, your acts, conduct, and/or omissions as alleged in paragraph (5) 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

JEFFREY BURWELL, P.A.

Page 5

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,

A handwritten signature in black ink, appearing to read "Anand G. Garg".

Anand G. Garg, M.D.  
Secretary

AGG/bjs  
Enclosures

CERTIFIED MAIL #Z 395 591 195  
RETURN RECEIPT REQUESTED

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BEFORE THE STATE BOARD OF MEDICINE

Commonwealth of Pennsylvania, :  
Bureau of Professional and :  
Occupational Affairs :  
vs. : Docket No. -49-99  
: File No. 1999-49-01819  
: Jeffrey Burwell, :  
Respondent :

CONSENT AGREEMENT AND ORDER

The Commonwealth and Respondent stipulate as follows in settlement of the above-captioned case.

1. This matter is before the State Board of Medicine pursuant to the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, as amended ("Act"), 63 P.S. §422.1 et seq.

2. At all relevant and material times, Jeffrey Burwell ("Respondent") held a license to practice medicine in the Commonwealth of Pennsylvania, License No. MA-002273-L.

3. The Respondent admits that the following facts are true:

a. Respondent's license is not current, having expired December 31, 1998 but may be renewed upon the filing of the appropriate documentation and payment of the necessary fees.

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STATE MEDICAL BOARD  
OF PHILADELPHIA

b. Respondent's last known address on file with the Board is 18155 Star Route 161, Plain City, Ohio 43064.

c. On July 28, 1998 the State Board of Medicine approved a Consent Agreement with Respondent in which Respondent's license was suspended for five years, immediately stayed in favor of probation with terms. (A true and correct copy of the Consent Agreement and Order is attached as Exhibit A).

d. One of the terms of the Consent Agreement included that Respondent must enroll in the Bureau's Professional Health Monitoring Program and provide periodic urine screens at his cost.

e. On March 18, 1999, Respondent notified the Board that he has decided not to continue practicing as a physician assistant and that he wishes to surrender his license to practice in the Commonwealth of Pennsylvania. (A true and correct copy of Respondent's correspondence is attached as Exhibit B).

4. The actions of Respondent, described above, violated the Act at 63 P.S. §422.41 (6).

STATE MEDICAL BOARD  
OHIO  
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5. The participants consent to issuance of the following Order in settlement of this matter:

a. Respondent violated the Act at 63 P.S. §422.41 (6) in that Respondent has failed to comply with the terms of the July 28, 1998 Consent Agreement and Order.

b. Respondent voluntarily surrenders his license to practice as a physician assistant in the Commonwealth.

c. Respondent shall, within ten days of the day of the Board's approval of this Order, forward his licensure documents to: Gerald S. Smith, Esquire, Counsel, State Board of Medicine, 116 Pine Street, Harrisburg, PA 17101.

6. Respondent waives the filing of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and to the following rights related to that hearing: to be represented by counsel at the hearing; the right to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

7. This Consent Agreement is between the Commonwealth and Respondent only. Except as otherwise noted, this Agreement is to have no legal effect unless and until the Office of General Counsel

STATE MEDICAL BOARD  
OF OHIO  
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approves the contents as to form and legality and the Board issues the stipulated Order.

8. Should the Board not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. The participants waive any objection to a Board member's consideration of this Agreement in the event that the member participated in a prior decision to prosecute this matter. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

9. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the Stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.

STATE MEDICAL BOARD  
OHIO  
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10. This agreement contains the whole agreement between the participants. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

11. Respondent verifies that the facts and statements set forth in this Agreement are true and correct to the best of

Respondent's knowledge, information and belief. Respondent understands that statements in this Agreement are made subject to the criminal penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Kathleen K. Ryan  
Kathleen K. Ryan  
Prosecuting Attorney  
Bureau of Professional and  
Occupational Affairs

DATED: 4/15/99

Jeffrey Burwell  
Jeffrey Burwell  
Respondent

DATED: 4-13-99

STATE MEDICAL BOARD  
OF OHIO  
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ORDER

AND NOW, this 27<sup>th</sup> day of July, 1999, the State Board of Medicine adopts and approves the foregoing Consent Agreement and incorporates the terms of paragraph 5, which shall constitute the Board's Order and is now issued in resolution of this matter.

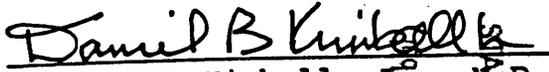
This Order shall take effect immediately.

BY ORDER:

BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

STATE BOARD OF MEDICINE

  
Dorothy Childress  
Commissioner

  
Daniel B. Kimball, J.D., M.D.  
Chairman

Date of mailing:

For the Commonwealth:

For Respondent:

Kathleen Klett Ryan, Esquire  
P. O. Box 2649  
Harrisburg, PA 17105-2649

Jeffrey E. Burwell  
18155 S.R. 161  
Plain City, OH 43064

KKR/arh

STATE MEDICAL BOARD OF OHIO  
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**STATE OF MICHIGAN  
DEPARTMENT OF CONSUMER & INDUSTRY SERVICES  
TASK FORCE ON PHYSICIAN'S ASSISTANTS  
DISCIPLINARY SUBCOMMITTEE**

**In the Matter of**

**JEFFREY EUGENE BURWELL, P.A.  
License Number: 56-01-002178.**

**Complaint Number: 56-98-0450-00  
Docket Number: 98-0362**

**FINAL ORDER**

On May 26, 1998, the Department of Consumer & Industry Services, Office of Health Services filed an Administrative Complaint and an Order of Summary Suspension with the Disciplinary Subcommittee of the Michigan Task Force on Physician's Assistants, hereafter Disciplinary Subcommittee, charging Jeffrey Eugene Burwell, P.A., hereafter Respondent, with a violation of 1996 MR 7, R 338.1632, contrary to section 16221(g) of the Public Health Code, 1978 PA 368, as amended.

On August 5, 1998, the Department of Attorney General, Health Professionals Division filed a First Amended Administrative Complaint, charging Respondent with violations of sections 16221(a), 16221(b)(ii), 16221(b)(x), and 16221(h) of the Public Health Code, supra.

An administrative hearing was held in the matter before an administrative law judge who, on November 20, 1998, issued a Proposal for Decision setting forth recommended findings of fact and conclusions of law.

STATE MICHIGAN BOARD OF PHYSICIAN ASSISTANTS  
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STATE OF MICHIGAN — INGHAM COUNTY  
We certify that the foregoing is a true  
copy of the original on file in the office  
of the Department of Consumer and Industry  
Services, Office of Health Services.

The Disciplinary Subcommittee, having reviewed the administrative record, considered the within matter at a regularly scheduled meeting held in Lansing, Michigan, on April 19, 1999, and affirmed the administrative law judge's findings of fact and conclusions of law in the Proposal for Decision. Now therefore,

IT IS HEREBY ORDERED that the Order of Summary Suspension dated May 26, 1998, is DISSOLVED, as of the effective date of this Order.

IT IS FURTHER ORDERED that for violations of sections 16221(a), 16221(b)(ii), 16221(b)(x), 16221(g), and 16221(h) of the Public Health Code, supra, Respondent's license to practice as a physician's assistant in the state of Michigan is SUSPENDED for a minimum period of six months and one day, commencing on the effective date of this Order. The periods of suspension shall run concurrently.

IT IS FURTHER ORDERED that reinstatement of a license which has been suspended for more than six months is not automatic and, in the event Respondent applies for reinstatement of his license, application for reinstatement shall be in accordance with 1996 MR 7, R 338.1635. Further, Respondent shall supply to the Task Force on Physician's Assistants, pursuant to section 16247 of the Public Health Code, supra, clear and convincing evidence that Respondent is of good moral character, is able to practice the profession with reasonable skill and safety, and that it is in the public interest for Respondent to resume the practice.

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MEDICAL BOARD  
OF MICHIGAN  
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IT IS FURTHER ORDERED that for the aforesaid violations of the Public Health Code, Respondent is FINED in the amount of \$500.00, to be paid to the State of Michigan prior to Respondent's application for reinstatement of his license. The fine shall be mailed to the Department of Consumer & Industry Services, Bureau of Health Services, Credentials Unit, P.O. Box 30185, Lansing, MI 48909. The fine shall be paid by check or money order made payable to the State of Michigan, and the check or money order shall clearly display (or show) the formal complaint number **56-98-0450-00**.

IT IS FURTHER ORDERED that in the event Respondent violates any provision of this Order, and if such violation is deemed to constitute an independent violation of the Public Health Code or the rules promulgated thereunder, the Disciplinary Subcommittee may proceed to take disciplinary action pursuant to 1996 MR 7, R 338.1632 and section 16221(g) of the Public Health Code, supra.

IT IS FURTHER ORDERED that this Order shall be effective on the date signed by the Disciplinary Subcommittee's Chairperson or its authorized representative,

STATE MEDICAL BOARD  
OF OHIO  
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as set forth below.

Dated: April 27, 1999

**MICHIGAN TASK FORCE ON PHYSICIAN'S ASSISTANTS  
DISCIPLINARY SUBCOMMITTEE**

By Carole Hakala Engle  
Carole Hakala Engle, Director  
Health Licensing Division

This is the last and final page of a Final Order in the matter of Jeffrey Eugene Burwell, P.A., Complaint Number 56-98-0450-00, Docket Number 98-0362, before the Disciplinary Subcommittee of the Michigan Task Force on Physician's Assistants, consisting of four pages, this page included.

BH

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OF OHIO  
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STATE OF MICHIGAN  
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES  
OFFICE OF LEGAL SERVICES

In the matter of

Docket No. 98-0362

Office of Health Services,  
Petitioner

Agency No. 56-98-0450

v  
Jeffrey Eugene Burwell, P.A.,  
Respondent

Agency Name: OHS

Case Type: Summary Suspension

Issued and entered  
this 20~~th~~ day of November 1998  
by James L. Karpen  
Administrative Law Judge

PROPOSAL FOR DECISION

**RECEIVED**

NOV 23 1998

DEPT. OF CONSUMER AND  
INDUSTRY SERVICES  
OFFICE OF HEALTH SERVICES

PROCEDURAL HISTORY

Appearances:

Assistant Attorney General Merry Rosenberg appeared on behalf of Petitioner, Office of Health Services. Neither Respondent, Jeffrey E. Burwell, nor an attorney on behalf of Respondent, appeared at the hearing.

This proceeding was commenced with the filing of a Notice of Hearing upon an Administrative Complaint dated May 26, 1998. A Notice of Hearing was sent to the Respondent's last known address on June 2, 1998. The Notice informed Respondent that if Respondent failed to appear at the hearing as scheduled, a default may be entered pursuant to Section 72 of the Administrative Procedures Act, 1969 PA 306, as amended; MCL 24.201 *et seq*; MSA 3.560(101) *et seq* (APA). After three adjournments (two of which were granted to Respondent by the Administrative Law Judge to whom this case was

STATE OF MICHIGAN — INGHAM COUNTY  
We certify that the foregoing is a true  
copy of the original on file in the office  
of the Department of Consumer and Industry

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OFFICE OF OHS

previously assigned), the hearing was held on November 6, 1998.

An Order of Summary Suspension was issued May 26, 1998, suspending Respondent's physician's assistant license.

Counsel requested that Petitioner be allowed to proceed in the Respondent's absence pursuant to Section 72 of the APA, and that a default be granted on behalf of the Petitioner pursuant to Section 78 of the APA.

Section 72 of the APA states in pertinent part:

(1) If a party fails to appear in a contested case, after proper service of notice, the agency, if no adjournment is granted, may proceed with the hearing and make its decision in the absence of the party.

Further, Section 78 of the APA states in pertinent part:

(2) Except as otherwise provided by law, disposition may be made of a contested case by...default....

The Judge granted the Petitioner's motion for default. As a result of the default, the factual allegations contained in the Petitioner's Administrative Complaint were deemed true.

### ISSUES AND APPLICABLE LAW

The Complaint in this case alleged that Respondent violated a July 22, 1996 Final Order in violation of 1996 AACS, R 338.1632 and Section 16621(g) (sic) of the Public Health Code, 1978 PA 368, as amended; MCL 333.1101 *et seq*; MSA 14.15(1101) *et seq* (the Code). The correct citation is Section 16221(g) of the Code; a violation of the Code or a rule promulgated under the Code.

STATE OF MICHIGAN — INGHAM COUNTY  
We certify that the foregoing is a true  
copy of the original on file in the office  
of the Department of Consumer and Industry  
Services, Office of Health Services.

STATE MEDICAL BOARD  
OF MICHIGAN  
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On August 5, 1998 a First Amended Administrative Complaint was issued by Petitioner. It alleged that on April 8, 1998 the State Medical Board of Ohio, based on Respondent's substance abuse, permanently revoked Respondent's certificate of registration, then stayed the revocation and suspended the certificate for three years or longer. The Amended Complaint alleges that Respondent failed to report the Ohio action. Based upon these facts, the Amended Complaint alleges a violation of Sections 16221(b)(x), 16221(h), 16221(a), and 16221(b)(ii) of the Code.

**FINDINGS OF FACT**

1. Respondent Jeffrey E. Burwell is currently licensed to practice as a physician's assistant under the Code.
2. On April 24, 1995 an Administrative Complaint was filed against Respondent for having acted in violation of Sections 16221(a), 16221(b)(ii), and 16221(c)(iv) of the Code.
3. Based on the Administrative Complaint, on July 22, 1996 a Final Order was issued against Respondent. The Final Order placed Respondent on probation for a minimum period of three years. The terms of the probation included, in part, that Respondent enter into, and comply with, the terms of a monitoring agreement with the Petitioner's contracted monitoring program for substance abuse recovery (Contractor).
4. Respondent had already entered into a monitoring agreement with the Contractor on November 2, 1995.
5. On March 24, 1998 the Contractor notified Petitioner that Respondent had

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OF OHIO  
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failed to comply with the terms of the monitoring agreement by failing to abstain from mood or mind-altering substances, as evidenced by a chemical dependency relapse, and failing to provide documentation to the Contractor as requested.

6. On April 8, 1998 the State Medical Board of Ohio permanently revoked Respondent's certificate of registration. The Board then stayed the revocation and suspended Respondent's certificate for an indefinite period of time, not to be less than three years.

7. This disciplinary action was imposed because of Respondent's substance abuse.

8. Respondent failed to report this disciplinary action to the Michigan Task Force on Physician's Assistants.

### CONCLUSIONS OF LAW

The principles that govern judicial proceedings also apply to administrative hearings. 8 Callaghan's Michigan Pleading and Practice (2d ed) Section 60.48, page 270. The burden of proof is upon the Petitioner to prove, by a preponderance of the evidence, that grounds exist for the imposition of sanctions upon the Respondent. 1996 AACSR, R 338.16224(1). Under Section 72 of the APA, there is no requirement to provide a full evidentiary hearing when all alleged facts are taken as true. Smith v Lansing School District, 428 Mich 248; 406 NW2d 825 (1987).

Based upon the facts described herein, the Petitioner has proven, by a preponderance of the evidence, that the Respondent violated Sections 16221(a),

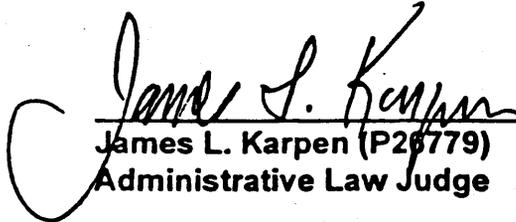
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Proposal For Decision  
OHS v Jeffrey E. Burwell, P.A.  
Docket No. 98-0362  
Page 5

16221(b)(ii), 16221(b)(x), 16221(g) and 16221(h), and Rule 338.1632 as described in the Administrative Complaint and the First Amended Administrative Complaint.

**EXCEPTIONS**

Within 15 days after service of this Proposal for Decision, a party may file exceptions. Within 5 days thereafter, the opposing party may file a response to the exceptions.

  
James L. Karpen (P26779)  
Administrative Law Judge

STATE MEDICAL BOARD  
OF OHIO  
1999 OCT -11 A 11: 04

STATE OF MICHIGAN — INGHAM COUNTY  
We certify that the foregoing is a true  
copy of the original on file in the office  
of the Department of Consumer and Industry  
Services, Office of Health Services.

**PROOF OF SERVICE**

I hereby certify, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by mailing same to them at their respective addresses as disclosed by the file, with postage fully prepaid on the ~~20th~~ day of November, 1998.

Debra L. Coyer  
Debra L. Coyer  
Office of Legal Services

Jeffrey E. Burwell  
144 Paxton Avenue  
Wheeling, West Virginia 26003

a copy was sent I.D. mail to:

Merry A. Rosenberg  
Department of Attorney General  
Health Professionals Division  
P.O. Box 30212  
Lansing, Michigan 48909

c: Ray R. Garza

STATE MEDICAL BOARD  
OF OHIO  
1999 OCT -4 A 11: 04

STATE OF MICHIGAN — INGHAM COUNTY  
We certify that the foregoing is a true  
copy of the original on file in the office  
of the Department of Consumer and Industry  
Services, Office of Health Services.

STATE OF MICHIGAN  
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES  
BUREAU OF OCCUPATIONAL AND PROFESSIONAL REGULATION  
TASK FORCE ON PHYSICIAN'S ASSISTANTS

*In the Matter of*

JEFFREY EUGENE BURWELL, P.A.  
License No. 56-01-002178

Docket No. 95-0674  
Complaint No. 56-94-0479-00

FINAL ORDER

WHEREAS, on April 24, 1995, the Office of Health Services within the Bureau of Occupational and Professional Regulation filed an Administrative Complaint with the Task Force on Physician's Assistants, hereafter Task Force, charging Jeffrey Eugene Burwell, P.A., hereafter Respondent, with having acted in violation of Sections 16221(a), 16221(b)(ii) and 16221(c)(iv) of the Public Health Code, 1978 PA 368, as amended; and

WHEREAS, an administrative hearing on the aforesaid complaint was held before an administrative law judge who, on March 15, 1996, filed a Proposal for Decision setting forth recommended findings of fact and conclusions of law, a copy of which is attached hereto; and

WHEREAS, the Task Force, having reviewed the administrative record its regularly scheduled meeting held in Lansing, Michigan, on June 20, 1996, and at said meeting accepted the administrative law judge's rulings and affirmed said administrative law judge's findings of fact and conclusions of law in the Proposal for Decision; now, therefore

STATE OF MICHIGAN — INGHAM COUNTY  
We certify that the foregoing is a true  
copy of the original on file in the office  
of the Department of Consumer and Industry  
Services, Office of Health Services.

IT IS HEREBY ORDERED that for each violation of Sections 16221(a), 16221(b)(ii) and 16221(c)(iv) of the Public Health Code, supra, Respondent shall be and hereby is assessed a FINE in the total amount of Two Thousand Dollars and No Cents (\$2,000.00); said fine to be paid by check, money order or cashier's check, made payable to the State of Michigan, within three (3) years of the effective date of this Order.

IT IS FURTHER ORDERED that the required fine specified herein shall be submitted to the Compliance Section, Legal Resources Division, Bureau of Occupational and Professional Regulation, Department of Consumer and Industry Services, P.O. Box 30185, Lansing, Michigan 48909.

IT IS FURTHER ORDERED that timely payment of the fine as required herein shall be Respondent's responsibility and the failure to pay said fine within the time required shall be deemed a violation of an order of the Task Force.

IT IS FURTHER ORDERED that for the aforesaid violations of the Public Health Code, supra, Respondent's license to practice as a Physician's Assistant in the State of Michigan shall be and hereby is placed on PROBATION for a period of THREE (3) YEARS, commencing on the effective date of this Order, with the following terms and conditions:

Respondent shall enter into a monitoring agreement with Professional Health Management Systems, Inc. (PHMS), or any subsequent Board-approved Department-contracted program for substance abuse recovery, and shall comply with the terms and conditions of the aforesaid monitoring agreement throughout the period specified in said monitoring agreement. PHMS shall submit quarterly written reports to the Task Force concerning Respondent's status in the monitoring agreement.

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STATE MEDICAL BOARD  
OF OHIO

IT IS FURTHER ORDERED that all reports required herein shall be filed on a

STATE OF MICHIGAN — INGHAM COUNTY  
We certify that the foregoing is a true copy of the original on file in the office of the Department of Consumer and Industry Services, Office of Health Services.

quarterly basis, the first report to be filed at the end of the third (3rd) month after the effective date of this Order, and subsequent reports to be filed every three (3) months thereafter for the period of probation.

IT IS FURTHER ORDERED that all reports required herein shall be filed c/o the Compliance Section, Legal Resources Division, Bureau of Occupational and Professional Regulation, Department of Consumer and Industry Services, P.O. Box 30018, Lansing, Michigan 48909.

IT IS FURTHER ORDERED that the timely filing of all reports required herein shall be Respondent's responsibility and the failure to file said reports within the time limitations herein provided shall be deemed a violation of an order of the Task Force.

IT IS FURTHER ORDERED that the sanctions herein imposed shall run concurrently, commencing on the effective date of this Order.

IT IS FURTHER ORDERED that this Order shall be effective immediately upon signing by the Task Force's Chairperson or authorized representative as set forth below.

Signed this 22<sup>nd</sup> day of July 1996.

MICHIGAN TASK FORCE ON PHYSICIAN'S ASSISTANTS

By Thomas C. Pappas II  
for Mary G. MacDowell, Director  
Health Licensing Division

STATE MEDICAL BOARD  
OF OHIO  
1999 OCT -4 A 11: 05

This is the last and final page of a Final Order in the matter of Jeffrey Eugene Burwell, P.A., File No. 56-94-0479-00, before the Michigan Task Force on Physician's Assistants, consisting of three (3) pages, this page included.

-3-

STATE OF MICHIGAN — INGHAM COUNTY  
We certify that the foregoing is a true  
copy of the original on file in the office  
of the Department of Consumer and Industry  
Services, Office of Health Services.

EXHIBIT A page 3 of 3

STATE OF MICHIGAN  
DEPARTMENT OF CONSUMER & INDUSTRY SERVICES  
OFFICE OF HEALTH SERVICES  
TASK FORCE ON PHYSICIAN'S ASSISTANTS  
DISCIPLINARY SUBCOMMITTEE

In the Matter of

JEFFREY EUGENE BURWELL, P.A.  
License Number: 56-01-002178 /

File Number: 56-98-0405-00

ORDER OF SUMMARY SUSPENSION

WHEREAS, an Administrative Complaint has been filed against the above-named Respondent as provided by the Public Health Code, 1978 PA 368, as amended; MCL 333.1101 et seq; MSA 14.15(1101) et seq, the rules promulgated thereunder, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 et seq; MSA 3.560(101) et seq; and

WHEREAS, after careful consideration of the documentation filed in said cause and after consultation with the chairperson of the Michigan Task Force on Physician's Assistants pursuant to section 16233(5) of the Public Health Code, supra, the Department hereby finds that the public health, safety, or welfare requires emergency action; now, therefore,

IT IS HEREBY ORDERED that Respondent's license to practice as a physician's assistant in the state of Michigan shall be and hereby is **SUMMARILY SUSPENDED** commencing the date this order is served.

MICHIGAN DEPARTMENT OF  
CONSUMER & INDUSTRY SERVICES

By Thomas C. Lindsay II  
Thomas C. Lindsay II, Director  
Office of Health Services

1999 OCT -4 A 11:05

STATE MEDICAL BOARD  
OF OHIO

DATED: May 26, 1998

**TRUE COPY**

STATE OF MICHIGAN — INGHAM COUNTY  
We certify that the foregoing is a true  
copy of the original on file in the office  
of the Department of Consumer and Industry  
Services, Office of Health Services.

C112

Z 395 591 195

US Postal Service  
**Receipt for Certified Mail**  
No Insurance Coverage Provided.

Jeffrey Burwell, PA  
18155 State Route 161  
Plain City, OH 43064

Postage	2.75
Certified Fee	1.40
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	1.25
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage and Fees	5.40
Postmaster's Date	NOV 18 1999

PS Form 3800, April 1995



**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:  
  
Jeffrey Burwell, PA  
18155 State Route 161  
Plain City, OH 43064

4a. Article Number  
Z 395 591 195

4b. Service Type  
 Registered     Insured  
 Certified     COD  
 Express Mail     Return Receipt for Merchandise

7. Date of Delivery  
11-19-99

5. Signature (Addressee)  
*Jeffrey Burwell*

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)  
*CITE*

Thank you for using Return Receipt Service.

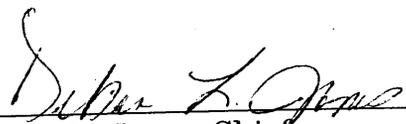
AFFIDAVIT

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

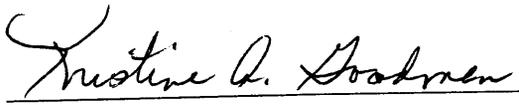
- 1) That I am employed by the State Medical Board of Ohio (hereinafter, "The Board")
- 2) That I serve the Board in the position of Chief, Continuing Medical Education, Records, and Renewal;
- 3) That in such position I am the responsible custodian of all public licensee records maintained by the Board pertaining to individuals who have received certificates issued pursuant to Chapter 4731., Ohio Revised Code;
- 4) That I have this day carefully examined the records of the Board pertaining to Jeffrey Burwell, P.A.
- 5) That based on such examination, I have found the last known address of record of Jeffrey Burwell, P.A. to be:

18155 State Route 161  
Plain City, Ohio 43064

- 6) Further, Affiant Sayeth Naught.

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

Sworn to and signed before me, Kristine A. Goodman, Notary  
Public, this 22<sup>nd</sup> day of December, 1999.

  
\_\_\_\_\_  
Notary Public



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



# State Medical Board of Ohio

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

April 8, 1998

Jeffrey E. Burwell, P.A.  
P. O. Box 402  
411 Avenue F  
Riverside, PA 17868

Dear Mr. Burwell:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 8, 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.*

Anand G. Garg, M.D.  
Secretary

AGG:jam  
Enclosures

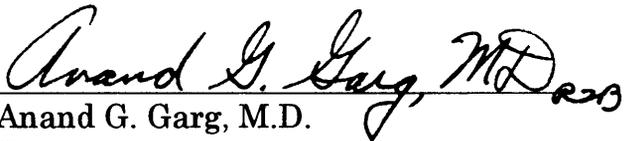
CERTIFIED MAIL RECEIPT NO. Z 233 895 338  
RETURN RECEIPT REQUESTED

*Mailed 4/13/98*

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 8, 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 Jeffrey E. Burwell, P.A., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.

  
Anand G. Garg, M.D.  
Secretary

(SEAL)

April 8, 1998  
Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF

\*

\*

JEFFREY E. BURWELL, P.A.

\*

**ENTRY OF ORDER**

This matter came on for consideration before the State Medical Board of Ohio on April 8, 1998.

Upon the Report and Recommendation of R. Gregory Porter, 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 registration of Jeffrey E. Burwell, P.A., as a physician assistant in the State of Ohio shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Mr. Burwell's certificate is SUSPENDED for an indefinite period of time, but not less than three years.
2. The Board shall not consider reinstatement of Mr. Burwell's certificate to practice unless all of the following minimum requirements have been met:
  - a. Mr. Burwell shall submit an application for reinstatement, accompanied by appropriate fees. Mr. Burwell shall not make such application for at least thirty months from the effective date of this Order.

- b. For the duration of the suspension period:
- i. Mr. Burwell 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. Burwell's history of chemical dependency.
  - ii. Mr. Burwell shall abstain completely from the use of alcohol.
  - iii. Within sixty days of the effective date of this Order, or as otherwise approved by the Board, Mr. Burwell shall commence appropriate drug and alcohol treatment, as determined by an informed assessment of his current needs. Such assessment and treatment shall be by a provider or providers approved in advance by the Board. Prior to the initial assessment, Mr. Burwell shall furnish the approved provider copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, Conclusions, Order, and any other documentation from the hearing record which the Board may deem appropriate or helpful to that provider. Within ten (10) days after the completion of the initial assessment, Mr. Burwell shall cause a written report to be submitted to the Board from the approved provider, which report shall include:
    - A detailed plan of recommended treatment based upon the provider's informed assessment of Mr. Burwell's current needs; and
    - Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.
  - iv. Mr. Burwell shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended drug and alcohol treatment, if any, pursuant to paragraph 2(b)(iii), above, on a quarterly basis, or as otherwise directed by the Board.

- v. Within thirty (30) days of the effective date of this Order, Mr. Burwell shall submit to the Board for its prior approval the name of a supervising physician to whom Mr. Burwell shall submit urine specimens as required in paragraph 2(b)(vi), 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.

For purposes of this Order, the supervising physician is not necessarily a physician identified in a physician assistant utilization plan under which Mr. Burwell may be employed.

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

Mr. Burwell 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. Burwell must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Mr. Burwell 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.

- vii. Mr. Burwell shall provide satisfactory quarterly documentation of continuous participation in a drug and alcohol rehabilitation program, such as AA, NA, or Caduceus, no less than five times per week. Substitution of any other specific program must receive prior Board approval.
- viii. Mr. Burwell 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.
- ix. Mr. Burwell shall comply with all terms, conditions, and limitations imposed by the Pennsylvania State Board of Medicine [Pennsylvania Board] and the Michigan Bureau of Occupational and Professional Regulation [Michigan Board]. Moreover, Mr. Burwell shall cause to be submitted to the Board copies of any reports that he submits to the Pennsylvania Board and/or the Michigan Board whenever those boards require such submission.
- x. Mr. Burwell shall notify the Board of any action in any state taken against a certificate of registration as a physician assistant held by Mr. Burwell in that state. Moreover, Mr. Burwell shall provide acceptable documentation verifying the same.
- xi. Mr. Burwell shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been

compliance with all the terms and conditions imposed by this Board, the Pennsylvania Board, the Michigan Board, and any other state medical board. 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 this Order becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must 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.

- xii. Mr. Burwell shall immediately notify the Board in writing of any modification or change to any term, condition, or limitation imposed by the Pennsylvania Board, the Michigan Board, or any other state medical board.
  - c. In the event that Mr. Burwell 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. Burwell's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
- a. Mr. Burwell 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. Burwell shall obey all federal, state, and local laws, and all rules governing the practice of a physician assistant in the state in which he is practicing.
  - c. Mr. Burwell shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the terms and conditions imposed by this Board, the Pennsylvania Board, the Michigan Board, and any other state medical board.

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 this Order becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must 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. Burwell shall appear in person for interviews before the full Board or its designated representative within three months of the reinstatement of his certificate and upon his request for termination of the probationary period, or as otherwise requested by the Board.

Furthermore, should Mr. Burwell commence practice in Ohio, he shall appear in person before the full Board or its designated representative within three months of commencing practice in Ohio, and shall thereafter appear before the full Board or its designated representative on a quarterly basis. If such 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 Mr. Burwell written notification of scheduled appearances, it is his 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. Burwell shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

- e. Mr. Burwell 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. Burwell's history of chemical dependency.
- f. Mr. Burwell shall abstain completely from the use of alcohol.
- g. Mr. Burwell shall submit to random urine screenings for drugs and alcohol three times per week or as otherwise directed by the Board. Mr. Burwell 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(b)(v), 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. Burwell 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. Burwell must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Mr. Burwell 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. Burwell's quarterly declaration. It is Mr. Burwell's responsibility to ensure that reports are timely submitted.

- h. Mr. Burwell shall submit blood and/or urine specimens for analysis without prior notice at such times as the Board may request, at Mr. Burwell's expense.
- i. Mr. Burwell shall maintain participation in an alcohol and drug 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. In addition, at his appearances before the Board or its designated

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

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

Mr. Burwell shall maintain compliance with the plan of recommended drug and alcohol treatment, if any, 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. Burwell 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. Burwell's responsibility to ensure that the quarterly reports are received in the Board's offices no later than the due date for Mr. Burwell's quarterly declaration.

- k. Mr. Burwell shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment providers, monitoring physicians, 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.
- l. Mr. Burwell shall comply with all terms, conditions, and limitations imposed by the Pennsylvania Board and the Michigan Board. Moreover, Mr. Burwell shall cause to be submitted to the Board copies of any reports that he submits to the Pennsylvania Board and/or the Michigan Board whenever those boards require such submission.
- m. Mr. Burwell shall notify the Board of any action in any state taken against a certificate of registration as a physician assistant held by Mr. Burwell in that state. Moreover, Mr. Burwell shall provide acceptable documentation verifying the same.

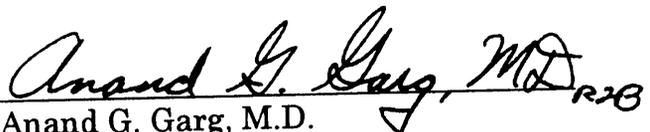
In the Matter of Jeffrey E. Burwell, P.A.

Page 9

- n. Mr. Burwell shall immediately notify the Board in writing of any modification or change to any term, condition, or limitation imposed by the Pennsylvania Board, the Michigan Board, or any other state medical board.
  - o. If Mr. Burwell violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may set aside the stay order and impose the permanent revocation of his certificate.
4. Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Burwell's certificate will be fully restored.
  5. The terms, conditions, and limitations of this Order shall supersede the terms, conditions, and limitations of the Board's February 12, 1997, Consent Agreement with Mr. Burwell.

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

April 8, 1998

Date

**REPORT AND RECOMMENDATION  
IN THE MATTER OF JEFFREY E. BURWELL, P.A.**

The Matter of Jeffrey E. Burwell, P.A., was heard by R. Gregory Porter, Esq., Attorney Hearing Examiner for the State Medical Board of Ohio, on February 6, 1998.

**INTRODUCTION**

**I. Basis for Hearing**

- A. In a Notice of Summary Suspension and Opportunity for Hearing, dated October 8, 1997, the State Medical Board of Ohio [Board] notified Jeffrey E. Burwell, P.A., that the Board had adopted an Order of Summary Suspension of his certificate of registration as a physician assistant, pursuant to Section 4730.25(E), Ohio Revised Code. The Board further advised that continued practice would be considered practicing without a certificate, in violation of Sections 4730.02(A) and/or 4731.41, Ohio Revised Code.

In addition, the Board notified Mr. Burwell that it proposed to take disciplinary action against or to refuse to register or reinstate his certificate of registration as a physician assistant, based upon his violation of the terms and conditions of a February 12, 1997, Consent Agreement between Mr. Burwell and the Board. The Board alleged that one of the provisions of that Consent Agreement required Mr. Burwell to “abstain completely from the use of alcohol.” The Board further alleged that Mr. Burwell “notified the Board on or about September 23, 1997, that [he] had suffered a relapse of [his] chemical dependency by using alcohol.”

Moreover, the Board alleged that Mr. Burwell’s acts, conduct, and/or omissions, individually and/or collectively, constituted: “(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”; and/or “(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.”

Finally, the Board advised Mr. Burwell of his right to request a hearing in this Matter. (State’s Exhibit 1)

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- B. By letter received by the Board on November 5, 1997, Mr. Burwell requested a hearing. (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: Jeffrey E. Burwell, P.A., having been apprised of his right to be represented by an attorney, appeared on his own behalf.

**EVIDENCE EXAMINED**

I. Testimony Heard

Presented by the State

Jan Sussex

Presented by the Respondent

Jeffrey E. Burwell, P.A.

II. Exhibits Examined

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 Exhibits 3 through 11: Procedural exhibits.
2. State's Exhibit 12: Copy of the February 12, 1997, Consent Agreement between Mr. Burwell and the Board. (29 pp.)
3. State's Exhibit 13: Copy of the March 21, 1997, Advocacy Contract between the Ohio Physicians Effectiveness Program [OPEP] and Mr. Burwell; and a copy of a March 25, 1997, cover letter to the Board from Barron Farrier, CCDCIII, Field Representative, OPEP. (3 pp.)
4. State's Exhibit 14: Copy of an April 9, 1997, letter to the Board from Mr. Farrier, concerning Mr. Burwell's employment in Pennsylvania.

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5. State's Exhibit 15: Copy of a May 6, 1997, letter to the Board from Chuck Lindquist, M.A., M.Div., Case Manager, Michigan Health Professional Recovery Corporation [HPRP], indicating that Mr. Burwell had participated in a monitoring contract with HPRP since October 31, 1995, and that he was in full compliance; copies of Mr. Burwell's monitoring agreement and urine toxicology reports are attached. (21 pp.)
6. State's Exhibit 16: Copies of Mr. Burwell's May 10, 1997, Declaration of Compliance, AA/NA Attendance logs, and fax cover sheet. (4 pp.) (Note: This exhibit has been sealed to protect the confidentiality of AA/NA participants.)
7. State's Exhibit 16A: Copy of a May 7, 1997, letter to the Board from Robert Bruce Wolf, MA, CAC, Chief, Commonwealth of Pennsylvania Health Monitoring Programs [PHMP], indicating that Mr. Burwell was in compliance with his agreement with the Pennsylvania State Board of Medicine; and fax cover sheet. (2 pp.)
8. State's Exhibit 17: Copy of an undated letter from Mr. Burwell requesting the Board to permit Mr. Burwell to concurrently serve his Ohio probation with his Pennsylvania probation; the following documents were attached: a copy of an April 9, 1997, letter to the Board from Mr. Farrier, concerning Mr. Burwell's employment in Pennsylvania (duplicate of St. Ex. 14); copies of letters and documentation concerning Mr. Burwell's contract with HPRP; and a copy of Mr. Burwell's Consent Agreement and Order with the Pennsylvania Board. (29 pp.)
9. State's Exhibit 18: Certified copy of the minutes of the May 15, 1997, Board meeting, concerning Mr. Burwell. (3 pp.)
10. State's Exhibit 19: Copy of a June 3, 1997, letter to Mr. Burwell from the Board informing Mr. Burwell that the Board had approved his request that the Board accept monitoring by the Pennsylvania Board toward reduction of his term of probation in Ohio; an excerpt of the draft minutes of the May 15, 1997, Board meeting concerning Mr. Burwell was attached. (2 pp.)
11. State's Exhibit 20: Copy of a July 9, 1997, letter to the Board from Thomas R. Hobbs, Ph.D., M.D., Medical Director, Physician's Health Programs of The Educational and Scientific Trust of the Pennsylvania Medical Society, concerning Mr. Burwell.

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12. State's Exhibit 21: Copy of Mr. Burwell's August 1, 1997, Declaration of Compliance; and attached fax cover sheet. (2 pp.)
13. State's Exhibit 22: Copies of the following documents: an August 8, 1997, letter to the Board from Mr. Burwell requesting that his appearance before the Board at the August 1997 meeting be rescheduled for September 1997; a July 1, 1997, letter to Mr. Burwell from the Board scheduling Mr. Burwell to appear before the Board at its August 12, 1997, meeting; and fax cover sheet. (3 pp.)
14. State's Exhibit 23: Copy of a letter received by the Board on or about September 20, 1997 (date stamp nearly illegible), from Mr. Burwell apologizing for and explaining his failure to appear before the Board at its September 8, 1997, meeting; a copy of an August 14, 1997, letter to Mr. Burwell rescheduling his August 1997 appearance for September 1997 was attached. (2 pp.)
15. State's Exhibit 24: Copy of an October 2, 1997, letter to the Board from Dr. Hobbs indicating that the Physicians' Health Programs had been informed of Mr. Burwell's relapse, and stating that Mr. Burwell had entered treatment at Greenbriar Treatment Center in Washington, Pennsylvania.
16. State's Exhibit 25: Copy of Mr. Burwell's medical record from his stay at Marworth, Waverly, Pennsylvania, from October 2 through December 5, 1997. (22 pp.) (Note: This exhibit has been sealed to protect patient confidentiality.)

**B. Presented by the Respondent**

Respondent's Exhibit A: Copy of a December 12, 1997, letter to Mr. Burwell from PHMP concerning his agreement with PHMP.

**SUMMARY OF THE EVIDENCE**

All transcripts of testimony and exhibits, whether or not specifically referred to hereinafter, were thoroughly reviewed and considered by the Attorney Hearing Examiner prior to preparing this Report and Recommendation.

1. On or about February 12, 1997, the Board entered into a Consent Agreement with Jeffrey E. Burwell, M.D., wherein the Board agreed to grant to Mr. Burwell registration as a physician assistant in Ohio. In that document, Mr. Burwell made the following admissions:
  - Mr. Burwell "suffers from opiate dependence, barbiturate dependence, and alcohol dependence. \* \* \* [H]e was convicted of driving under the influence, in or about March 1989, in Lancaster, Ohio, and \* \* \* for a period of time in and/or before

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March 1994, he diverted controlled substances, including Vicodin, Xanax, and cough syrup with codeine, from the family practice clinic in Ludington, Michigan, at which he was employed as a physician assistant.”

- In or about March 1994, Mr. Burwell entered New Life Recovery Center in Ludington, Michigan, and completed about 5 weeks of its intensive outpatient program before moving to a different area. In May 1994, Mr. Burwell began individual therapy at Port Huron Hospital in Port Huron, Michigan, and continued such therapy until November 1994, when his counselor left the facility.

Further, Mr. Burwell participated in individual therapy sessions at the River District Counseling Center in Clare, Michigan, from about February 1995 until he was discharged in July 1995. He entered the Parkview Recovery Program at Port Huron Hospital around September 28, 1995, and was continuing in that program at the time the Consent Agreement was executed.

Moreover, Mr. Burwell participated in the Employee Assistance Program in Port Huron, Michigan, and had entered into and participated in monitoring agreements with Physician's Health Care Network since October 1995, and with the Michigan Health Professional Recovery Program since November 1995. Mr. Burwell stated that he had been fully compliant with those agreements.

In addition, Mr. Burwell had been using Antabuse and Trexan daily, prescribed by a physician, since early 1995. Mr. Burwell stated that he had maintained sobriety since March 1994.

- On or about April 24, 1995, the Michigan Department of Commerce, Bureau of Occupational and Professional Regulation [Michigan Board], issued a complaint charging Mr. Burwell with violations of the Michigan Public Health Code for having diverted controlled substances for his personal use and for failing to complete the recommended substance abuse treatment. Thereafter, on or about July 22, 1996, Mr. Burwell was fined \$2,000.00, and his Michigan registration as a physician's assistant was placed on probation for three years. Mr. Burwell stated that he had fully complied with the terms of that probation.

(State's Exhibit [St. Ex.] 12, pp. 1-3)

The Board placed Mr. Burwell's Ohio registration on probation for a minimum of two years, subject to certain terms and conditions specified in the Consent Agreement. Among these, paragraph 7 stated that "Mr. Burwell shall abstain completely from the use of alcohol." (St. Ex. 12, p. 4)

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2. By letter dated March 25, 1997, Ohio Physician Effectiveness Program [OPEP] Field Representative Barron Farrier notified the Board that Mr. Burwell had signed an advocacy contract with OPEP on March 21, 1997. (St. Ex. 13)
3. Shortly after entering into the Consent Agreement, Mr. Burwell notified the Board that he had moved to Wheeling, West Virginia, and had begun working at the Occupational Medicine Center at Washington Hospital in Washington, Pennsylvania. Mr. Burwell also noted that he had entered into a consent agreement with the Pennsylvania State Board of Medicine [Pennsylvania Board], and asked the Ohio Board to consider allowing him "to concurrently serve [his] probationary period with Ohio under the terms of the Pennsylvania agreement." Mr. Burwell further indicated that two of the Pennsylvania Board's requirements were less stringent than those of the Ohio Board's agreement. In addition, Mr. Burwell offered to have the Pennsylvania monitoring agency send quarterly reports to the Ohio Board. Finally, Mr. Burwell stated that the Michigan Board had agreed to accept the terms of the Pennsylvania Board and to be provided with quarterly reports from the Pennsylvania Board. (St. Ex. 17)

In support of his request, Mr. Burwell sent documentation from the Michigan authority that indicated that the Michigan authority had agreed to accept the terms of Mr. Burwell's Pennsylvania agreement. (St. Ex. 17)

In addition, by letter dated April 9, 1997, OPEP asked the Board to consider accepting documentation from Mr. Burwell's Pennsylvania program as evidence of his abstinence, and noted that Mr. Burwell appeared to be well established in his recovery efforts. (St. Ex. 14)

4. By letter dated May 6, 1997, the Michigan Health Professional Recovery Corporation [HPRP] informed the Board that Mr. Burwell had been under a monitoring agreement with HPRP since October 31, 1995, and noted that Mr. Burwell was in full compliance with the terms of that agreement. (St. Ex. 15)
5. At its meeting of May 15, 1997, the Board agreed to accept the monitoring of the Pennsylvania Board toward the reduction of Mr. Burwell's Ohio probation. (St. Exs. 18 and 19)
6. On May 7, 1997, the Board received notification from the Professional Health Monitoring Programs [PHMP] of Pennsylvania that Mr. Burwell was in full compliance with the terms of his Pennsylvania consent agreement. (St. Ex. 16A)

Further, on May 13, 1997, and again on August 5, 1997, Mr. Burwell sent declarations to the Board that he had continued to comply with the terms of his Ohio Consent Agreement. (St. Exs. 16 and 21)

By letter dated July 9, 1997, Thomas R. Hobbs, Ph.D., M.D., Medical Director of the Physicians' Health Programs of The Educational and Scientific Trust of the Pennsylvania

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Medical Society [PHP], notified the Board that Mr. Burwell was a participant in that program. Dr. Hobbs further stated that Mr. Burwell was in compliance with that program and appeared to be in stable recovery. (St. Ex. 20)

7. On August 8, 1997, the Board received a request from Mr. Burwell that his August 12, 1997, Board appearance be rescheduled to September. Mr. Burwell stated that he was planning to go to Michigan on August 12, 1997, for a vacation and CME conference. The Board notified Mr. Burwell, by letter dated August 14, 1997, that his request had been granted and that his appearance had been rescheduled to September 8, 1997. (St. Exs. 22 and 23)
8. By letter received by the Board on or about September 20, 1997, Mr. Burwell notified the Board that he had missed his September 8, 1997, appearance because of a lack of transportation. He further indicated that his lack of transportation had been the result of financial difficulties resulting from his pending divorce. (St. Ex. 23)
9. Jan Sussex testified that she is the Compliance Officer for the Board. She further testified that, as such, she is responsible for monitoring the compliance of licensees who are under probationary orders and agreements with the Board. (Transcript at page [Tr.] 12)

Ms Sussex testified that she received a telephone call from Mr. Burwell on or about September 23, 1997. She further stated that Mr. Burwell told her during that conversation that he had relapsed on alcohol, that he had been drinking on weekends for some time, that he had hit bottom, and that he was seeking treatment. (Tr. 18)

10. By letter dated October 2, 1997, Dr. Hobbs notified that Board that PHP had been informed by Mr. Burwell on September 19, 1997, that he had relapsed on beer and had entered the Greenbriar Treatment Center in Washington, Pennsylvania. Dr. Hobbs further stated that, at PHP's request, Mr. Burwell would be entering the Marworth Program for continued treatment. (St. Ex. 24)
11. Mr. Burwell testified that his relapse began in March or April 1997. He acknowledged that this was prior to his May 1997 appearance before the Board. He stated that, at first, he drank intermittently on weekends. He further testified, however, that it had progressed to the point where, by September 1997, he "was pretty much drinking all the time." Mr. Burwell stated that, prior to his entering treatment, he was "probably drinking close to a case of beer a day." (Tr. 26-28)

Mr. Burwell further acknowledged that, during the last month of his relapse, he drank before going to work. He also stated that he occasionally drank during lunch on work days. Mr. Burwell testified that, during this period, he worked part-time for Washington Hospital at an occupational medicine center, and worked in the afternoon at an office-based family practice. (Tr. 28)

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12. Mr. Burwell testified concerning his reasons for not admitting his relapse and entering treatment sooner:

I feared losing my license, my ability to support my kids and myself. I feared that my wife would use it against me in the divorce and limit my time with the kids, and I was, I guess, deceiving myself, thinking that I could get it under control without going for professional help.

(Tr. 29)

13. Mr. Burwell testified that the last three years have been very difficult for him. He stated that, shortly after becoming sober, his father was diagnosed with pancreatic cancer at the age of fifty. He further testified that, after he had been sober for approximately two years, his wife left him—taking their two children—and moved six and one-half hours away. Mr. Burwell stated that he subsequently moved to Wheeling, West Virginia, to be closer to them, and took a 33 percent pay cut. Mr. Burwell stated, “Mounting financial difficulties, the ongoing divorce, and finding that another man had moved in with my wife and children proved to be too much for my coping ability at the time[.]” (Tr. 23)

Mr. Burwell testified that he suffered a relapse of alcoholism, but further stated that relapses commonly occur to those who suffer from that disease even without the severe stressors that he has faced. He further testified that he had believed that voluntarily admitting himself to inpatient treatment would be the best way to affect a positive and lasting change in his life and permit him to return to practice. (Tr. 23-24)

Mr. Burwell testified that the Pennsylvania Board has informed him that it would not take further action against his Pennsylvania certificate as a result of his relapse. Mr. Burwell expressed a hope that Ohio would not take severe action against his Ohio certificate, and fears that such action could jeopardize his ability to maintain his Pennsylvania certificate. (Tr. 24-25)

14. Mr. Burwell testified that on January 26, 1998, he began working at the State Correctional Institution in Shamokin, Pennsylvania. He stated that he works with one other physician assistant and a supervising physician taking sick calls for the inmates and performing physical examinations. Mr. Burwell further stated that he currently works 40 hours per week. (Tr. 25-26, 33)

Mr. Burwell testified that Shamokin is in the central part of the state and is fairly remote. He testified, however, that there are Alcoholics Anonymous meetings in Shamokin and in neighboring communities. Mr. Burwell further testified that, in the week and a half that intervened between his moving to Shamokin and testifying at the hearing, he had attended between eight and ten such meetings. (Tr. 34)

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Mr. Burwell testified that he currently has no plans to return to Ohio to practice. (Tr. 24)

15. Mr. Burwell testified that he currently takes Wellbutrin for depression and BuSpar for anxiety. (Tr. 33)
16. Mr. Burwell's medical records from Marworth indicate that he had been admitted to that program on October 2, 1997, and discharged on December 5, 1997. The discharge summary indicated that Mr. Burwell had been able to accept the fact that he was chemically dependent and gained insight into his relapse process. Nevertheless, the discharge summary further stated that Mr. Burwell had had a history of "becoming overwhelmed," is unable to utilize 12-step support, and remained at a high risk of further relapse upon discharge "until he can entrench himself into a program of recovery." (St. Ex. 25)

### FINDINGS OF FACT

The evidence is sufficient to support the following Findings:

1. On or about February 12, 1997, Jeffrey E. Burwell, P.A., entered into a Consent Agreement with the State Medical Board of Ohio based upon violations of Sections 4730.25(B)(5) and (B)(18), Ohio Revised Code. Under the terms of that agreement, the Board agreed to grant a certificate of registration as a physician assistant to Mr. Burwell, and Mr. Burwell agreed to certain specified terms and conditions of probation for a period of a minimum of two years.
2. Paragraph 7 of the February 12, 1997, Consent Agreement required that Mr. Burwell "abstain completely from the use of alcohol."
3. Mr. Burwell notified the Board on or about September 23, 1997, that he had suffered a relapse of his chemical dependency by using alcohol.

Mr. Burwell's relapse began in March or April 1997 and continued until he voluntarily sought treatment in September 1997.

### CONCLUSIONS OF LAW

1. As set forth in the Findings of Fact, above, the acts, conduct, and/or omissions of Jeffrey C. Burwell, P.A., 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.

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2. As set forth in the Findings of Fact, above, the acts, conduct, and/or omissions of Mr. Burwell, 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.

\* \* \* \* \*

Although it is extremely disturbing that Mr. Burwell relapsed, and that he abused alcohol during working hours, he was forthright in acknowledging this transgression. Moreover, Mr. Burwell appears to be fully committed to his recovery, having successfully completed his first inpatient recovery program. In addition, Mr. Burwell’s relapse occurred during a time of great personal strain in his life. Finally, Mr. Burwell freely admitted his dependency and relapse at hearing. Mr. Burwell’s willingness to admit the full breadth of his relapse may bode well for his future prospects of recovery. Under these circumstances, the Board may—with stringent monitoring requirements in place—wish to extend to Mr. Burwell a final opportunity to demonstrate that he can maintain sobriety and thereby practice safely.

### PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of registration of Jeffrey E. Burwell, P.A., as a physician assistant in the State of Ohio shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Mr. Burwell’s certificate is SUSPENDED for an indefinite period of time, but not less than three years.
2. The Board shall not consider reinstatement of Mr. Burwell’s certificate to practice unless all of the following minimum requirements have been met:
  - a. Mr. Burwell shall submit an application for reinstatement, accompanied by appropriate fees. Mr. Burwell shall not make such application for at least thirty months from the effective date of this Order.
  - b. For the duration of the suspension period:
    - i. Mr. Burwell 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. Burwell’s history of chemical dependency.
    - ii. Mr. Burwell shall abstain completely from the use of alcohol.

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- iii. Within sixty days of the effective date of this Order, or as otherwise approved by the Board, Mr. Burwell shall commence appropriate drug and alcohol treatment, as determined by an informed assessment of his current needs. Such assessment and treatment shall be by a provider or providers approved in advance by the Board. Prior to the initial assessment, Mr. Burwell shall furnish the approved provider copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, Conclusions, Order, and any other documentation from the hearing record which the Board may deem appropriate or helpful to that provider. Within ten (10) days after the completion of the initial assessment, Mr. Burwell shall cause a written report to be submitted to the Board from the approved provider, which report shall include:
- A detailed plan of recommended treatment based upon the provider's informed assessment of Mr. Burwell's current needs; and
  - Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.
- iv. Mr. Burwell shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended drug and alcohol treatment, if any, pursuant to paragraph 2(b)(iii), above, on a quarterly basis, or as otherwise directed by the Board.
- v. Within thirty (30) days of the effective date of this Order, Mr. Burwell shall submit to the Board for its prior approval the name of a supervising physician to whom Mr. Burwell shall submit urine specimens as required in paragraph 2(b)(vi), 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.
- For purposes of this Order, the supervising physician is not necessarily a physician identified in a physician assistant utilization plan under which Mr. Burwell may be employed.
- vi. Mr. Burwell shall submit to random urine screenings for drugs and alcohol on a random basis at least three times per week, or as otherwise directed by the Board. Mr. Burwell shall submit the urine specimens to the supervising physician approved by the Board pursuant to paragraph 2(b)(v), above. The drug testing panel utilized must be acceptable to the Secretary of the Board.

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Mr. Burwell 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. Burwell must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Mr. Burwell 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.

- vii. Mr. Burwell shall provide satisfactory quarterly documentation of continuous participation in a drug and alcohol rehabilitation program, such as AA, NA, or Caduceus, no less than five times per week. Substitution of any other specific program must receive prior Board approval.
- viii. Mr. Burwell 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.
- ix. Mr. Burwell shall comply with all terms, conditions, and limitations imposed by the Pennsylvania State Board of Medicine [Pennsylvania Board] and the Michigan Bureau of Occupational and Professional Regulation [Michigan Board]. Moreover, Mr. Burwell shall cause to be submitted to the Board copies of any reports that he submits to the Pennsylvania Board and/or the Michigan Board whenever those boards require such submission.
- x. Mr. Burwell shall notify the Board of any action in any state taken against a certificate of registration as a physician assistant held by Mr. Burwell in that state. Moreover, Mr. Burwell shall provide acceptable documentation verifying the same.



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and upon his request for termination of the probationary period, or as otherwise requested by the Board.

Furthermore, should Mr. Burwell commence practice in Ohio, he shall appear in person before the full Board or its designated representative within three months of commencing practice in Ohio, and shall thereafter appear before the full Board or its designated representative on a quarterly basis. If such 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 Mr. Burwell written notification of scheduled appearances, it is his 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. Burwell shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

- e. Mr. Burwell 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. Burwell's history of chemical dependency.
- f. Mr. Burwell shall abstain completely from the use of alcohol.
- g. Mr. Burwell shall submit to random urine screenings for drugs and alcohol three times per week or as otherwise directed by the Board. Mr. Burwell 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(b)(v), 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. Burwell 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. Burwell must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Mr. Burwell 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.

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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. Burwell's quarterly declaration. It is Mr. Burwell's responsibility to ensure that reports are timely submitted.

- h. Mr. Burwell shall submit blood and/or urine specimens for analysis without prior notice at such times as the Board may request, at Mr. Burwell's expense.
- i. Mr. Burwell shall maintain participation in an alcohol and drug 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. In addition, at his appearances before the Board or its designated representative, Mr. Burwell shall submit acceptable documentary evidence of continuing compliance with this program.
- j. Mr. Burwell shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended drug and alcohol treatment, if any, pursuant to paragraph 2(b)(iii), above, on a quarterly basis, or as otherwise directed by the Board.

Mr. Burwell shall maintain compliance with the plan of recommended drug and alcohol treatment, if any, 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. Burwell 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. Burwell's responsibility to ensure that the quarterly reports are received in the Board's offices no later than the due date for Mr. Burwell's quarterly declaration.

- k. Mr. Burwell shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment providers, monitoring physicians, 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.
- l. Mr. Burwell shall comply with all terms, conditions, and limitations imposed by the Pennsylvania Board and the Michigan Board. Moreover, Mr. Burwell shall cause to be submitted to the Board copies of any reports that he submits to the Pennsylvania Board and/or the Michigan Board whenever those boards require such submission.
- m. Mr. Burwell shall notify the Board of any action in any state taken against a certificate of registration as a physician assistant held by Mr. Burwell in that state. Moreover, Mr. Burwell shall provide acceptable documentation verifying the same.

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- n. Mr. Burwell shall immediately notify the Board in writing of any modification or change to any term, condition, or limitation imposed by the Pennsylvania Board, the Michigan Board, or any other state medical board.
  - o. If Mr. Burwell violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may set aside the stay order and impose the permanent revocation of his certificate.
4. Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Burwell's certificate will be fully restored.
  5. The terms, conditions, and limitations of this Order shall supersede the terms, conditions, and limitations of the Board's February 12, 1997, Consent Agreement with Mr. Burwell.

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



R. Gregory Porter  
Attorney Hearing Examiner



# State Medical Board of Ohio

175 S. HOVSEY BUILDING • COLUMBUS, OHIO 43260-0511 • (614) 462-3301 • Web site: [www.state.ohio.us](http://www.state.ohio.us)

## EXCERPT FROM THE DRAFT MINUTES OF APRIL 8, 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: Tonya N. Croak; Hans Zwart, M.D. & Associates, Inc.; Carl Elgin Grinstead, II, M.D.; Sam Hill, D.O.; James L. Kegler, M.D.; Jeffrey E. Burwell, P.A.; and James C. Dickens, P.A. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Somani	- aye
	Mr. Sinnott	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Steinbergh	- aye
	Dr. Buchan	- aye

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. Somani	- aye
	Mr. Sinnott	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- 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.

.....

JEFFREY E. BURWELL, P.A.

.....

**DR. BHATI MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JEFFREY E. BURWELL, P.A. DR. AGRESTA SECONDED THE MOTION.**

.....

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

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Somani	- aye
	Mr. Sinnott	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Steinbergh	- aye
	Dr. Buchan	- aye

The motion carried.



# STATE MEDICAL BOARD OF OHIO

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

## NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

October 8, 1997

Jeffrey E. Burwell, P.A.  
70 Forney Drive  
Wheeling, WV, 26003

Dear Mr. Burwell:

Enclosed please find certified copies of the Entry of Order, the Notice of Opportunity for Hearing, and an excerpt of the Minutes of the State Medical Board, meeting in regular session on October 8, 1997, including a Motion adopting the Order of Summary Suspension and issuing the Notice of Opportunity for Hearing pursuant to Section 4730.25(E), Ohio Revised Code.

You are advised that continued practice after receipt of this Order shall be considered practicing without a certificate, in violation of Section 4730.02(A) and/or 4731.41, Ohio Revised Code.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order of Summary Suspension. 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 appeal, must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

Additionally, pursuant to Chapter 119, Ohio Revised Code, you are hereby advised that you are entitled to a hearing on the allegations set forth in the Notice of Opportunity for Hearing. If you wish to request such hearing, that request must be made in writing and be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice. Further information concerning such hearing is contained within the Notice of Opportunity for Hearing.

THE STATE MEDICAL BOARD OF OHIO

Thomas E. Gretter, M.D., Secretary

TEG:caf  
Enclosures

*Mailed 10/9/97*



# STATE MEDICAL BOARD OF OHIO

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

## CERTIFICATION

I hereby certify that the attached copies of the Entry of Order of the State Medical Board of Ohio and the Motion by the State Medical Board, meeting in regular session on October 8, 1997, to Adopt the Order of Summary Suspension and to Issue the Notice of Opportunity for Hearing, constitute true and complete copies of the Motion and Order as they appear in the Journal of the State Medical Board of Ohio.

This certification is made under the authority of the State Medical Board of Ohio and in its behalf.

  
Secretary

(SEAL)

10/9/97  
Date



# **STATE MEDICAL BOARD OF OHIO**

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

## **BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF :

**JEFFREY E. BURWELL, P.A.** :

### **ENTRY OF ORDER**

This matter came on for consideration before the State Medical Board of Ohio the 8th day of October, 1997.

Pursuant to Section 4730.25(E), Ohio Revised Code, and upon recommendation of Thomas E. Gretter, M.D., Secretary, and Raymond J. Albert, Supervising Member; and

Pursuant to their determination that there is clear and convincing evidence that Jeffrey E. Burwell, P.A., has violated Sections 4730.25(B)(5) and (B)(20), Ohio Revised Code, as alleged in the Notice of Opportunity for Hearing which is enclosed herewith and fully incorporated herein, which determination is based upon review of information received pursuant to an investigation; and

Pursuant to their further determination that Mr. Burwell's continued practice presents a danger of immediate and serious harm to the public; and further

Pursuant to the Consent Agreement between Mr. Burwell and the State Medical Board of Ohio, effective February 12, 1997, which states:

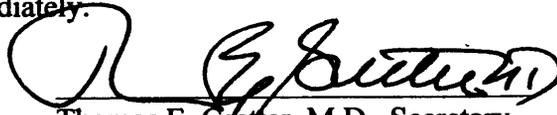
If the Secretary and Supervising Member of the BOARD determine that there is clear and convincing evidence that MR. BURWELL has violated any term, condition or limitation of this CONSENT AGREEMENT, MR. BURWELL agrees that the violation, as alleged, also constitutes clear and convincing evidence that his continued practice presents a danger of immediate and serious harm to the public for purposes of initiating a summary suspension pursuant to Section 4730.25(E), Ohio Revised Code.

Entry of Order  
Jeffrey E. Burwell, P.A.  
Page 2

The following Order is hereby entered on the Journal of the State Medical Board of Ohio for the 8th day of October, 1997;

It is hereby ORDERED that the certificate of registration of Jeffrey E. Burwell, P.A., as a physician assistant in the State of Ohio be summarily suspended.

This Order shall become effective immediately.



Thomas E. Gretter, M.D., Secretary  
(SEAL)

10/9/97

\_\_\_\_\_  
Date



**STATE MEDICAL BOARD OF OHIO**  
77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614)466-3934

**NOTICE OF  
OPPORTUNITY FOR HEARING**

October 8, 1997

Jeffrey E. Burwell, P.A.  
70 Forney Drive  
Wheeling, West Virginia 26003

Dear Mr. Burwell:

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, 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 for one or more of the following reasons:

- (1) On or about February 12, 1997, you entered into a Consent Agreement with the State Medical Board of Ohio in lieu of formal proceedings based upon the violations of Sections 4730.25(B)(5) and (B)(18), Ohio Revised Code. In this Consent Agreement, the Board agreed to grant to you registration as a physician assistant in the State of Ohio, and you agreed with the Board to certain specified probationary terms, conditions, and limitations for a minimum of two years. A copy of this Consent Agreement is attached hereto and incorporated herein.
- (2) Paragraph (7) of this Consent Agreement states that you "shall abstain completely from the use of alcohol."

Despite this provision, you notified the Board on or about September 23, 1997, that you had suffered a relapse of your chemical dependency by using alcohol.

Your acts, conduct, and/or omissions, as alleged in paragraphs (1) and (2) above, individually and/or collectively, constitute "(i)mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," as that clause is used in Section 4730.25(B)(5), Ohio Revised Code.

Further, your acts, conduct, and/or omissions, as alleged in paragraphs (1) and (2) above, individually and/or collectively, constitute "(v)iolation of the conditions placed by the

*Mailed 10/9/97*

Jeffrey E. Burwell, P.A.

Page 2

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.

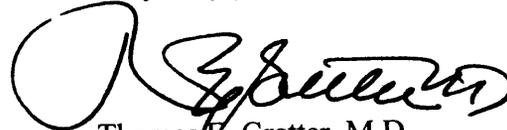
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing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

You are further advised that 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.

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Thomas E. Gretter, M.D.  
Secretary

TEG/caf  
Enclosures

CERTIFIED MAIL #P 152 984 783  
RETURN RECEIPT REQUESTED

Duplicate mailing to: Jeffrey E. Burwell, P.A.  
18155 State Route 161  
Plain City, OH 43064

CERTIFIED MAIL #P 152 984 785  
RETURN RECEIPT REQUESTED

**STATE OF MICHIGAN  
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES  
BUREAU OF OCCUPATIONAL AND PROFESSIONAL REGULATION  
TASK FORCE ON PHYSICIAN'S ASSISTANTS**

97 FEB -4- 56-94-0479-00

*In the Matter of*

**JEFFREY EUGENE BURWELL, P.A.**  
License No. 56-01-002178

**Docket No. 95-0674**  
**Complaint No. 56-94-0479-00**

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**FINAL ORDER**

WHEREAS, on April 24, 1995, the Office of Health Services within the Bureau of Occupational and Professional Regulation filed an Administrative Complaint with the Task Force on Physician's Assistants, hereafter Task Force, charging Jeffrey Eugene Burwell, P.A., hereafter Respondent, with having acted in violation of Sections 16221(a), 16221(b)(ii) and 16221(c)(iv) of the Public Health Code, 1978 PA 368, as amended; and

WHEREAS, an administrative hearing on the aforesaid complaint was held before an administrative law judge who, on March 15, 1996, filed a Proposal for Decision setting forth recommended findings of fact and conclusions of law, a copy of which is attached hereto; and

WHEREAS, the Task Force, having reviewed the administrative record at its regularly scheduled meeting held in Lansing, Michigan, on June 20, 1996, and at said meeting accepted the administrative law judge's rulings and affirmed said administrative law judge's findings of fact and conclusions of law in the Proposal for Decision; now, therefore

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We certify that the foregoing is a true copy of the original on file in the office of the Department of Commerce, Bureau of Occupational and Professional Regulation, Office of Legal Services, Legal Resources Division

IT IS HEREBY ORDERED that for each violation of Sections 16221(a), 16221(b)(ii) and 16221(c)(iv) of the Public Health Code, supra, Respondent shall be and hereby is assessed a FINE in the total amount of Two Thousand Dollars and No Cents (\$2,000.00), said fine to be paid by check, money order or cashier's check, made payable to the State of Michigan, within three (3) years of the effective date of this Order.

IT IS FURTHER ORDERED that the required fine specified herein shall be submitted to the Compliance Section, Legal Resources Division, Bureau of Occupational and Professional Regulation, Department of Consumer and Industry Services, P.O. Box 30185, Lansing, Michigan 48909.

IT IS FURTHER ORDERED that timely payment of the fine as required herein shall be Respondent's responsibility and the failure to pay said fine within the time required shall be deemed a violation of an order of the Task Force.

IT IS FURTHER ORDERED that for the aforesaid violations of the Public Health Code, supra, Respondent's license to practice as a Physician's Assistant in the State of Michigan shall be and hereby is placed on PROBATION for a period of THREE (3) YEARS, commencing on the effective date of this Order, with the following terms and conditions:

Respondent shall enter into a monitoring agreement with Professional Health Management Systems, Inc. (PHMS), or any subsequent Board-approved Department-contracted program for substance abuse recovery, and shall comply with the terms and conditions of the aforesaid monitoring agreement throughout the period specified in said monitoring agreement. PHMS shall submit quarterly written reports to the Task Force concerning Respondent's status in the monitoring agreement.

IT IS FURTHER ORDERED that all reports required herein shall be filed on a

**STATE OF MICHIGAN - INGHAM COUNTY**

We certify that the foregoing is a true copy of the original on file in the office of the Department of Consumer Services, Bureau of Occupational and Professional Regulation, Office of Legal Services, Legal Resources Division

quarterly basis, the first report to be filed at the end of the third (3rd) month after the effective date of this Order, and subsequent reports to be filed every three (3) months thereafter for the period of probation.

IT IS FURTHER ORDERED that all reports required herein shall be filed c/o the Compliance Section, Legal Resources Division, Bureau of Occupational and Professional Regulation, Department of Consumer and Industry Services, P.O. Box 30018, Lansing, Michigan 48909.

IT IS FURTHER ORDERED that the timely filing of all reports required herein shall be Respondent's responsibility and the failure to file said reports within the time limitations herein provided shall be deemed a violation of an order of the Task Force.

IT IS FURTHER ORDERED that the sanctions herein imposed shall run concurrently, commencing on the effective date of this Order.

IT IS FURTHER ORDERED that this Order shall be effective immediately upon signing by the Task Force's Chairperson or authorized representative as set forth below.

Signed this 22<sup>nd</sup> day of July, 1996.

MICHIGAN TASK FORCE ON PHYSICIAN'S ASSISTANTS

By Thomas C. Johnson II  
for Mary G. MacDowell, Director  
Health Licensing Division

This is the last and final page of a Final Order in the matter of Jeffrey Eugene Burwell, P.A., File No. 50-94-0475-00, before the Michigan Task Force on Physician's Assistants. We certify that the foregoing is a true copy of the original on file in the office of the Department of Commerce, Bureau of Occupational and Professional Regulation, Office of Legal Services, Legal Resources Division

STATE OF MICHIGAN

DEPARTMENT OF COMMERCE

BUREAU OF OCCUPATIONAL AND PROFESSIONAL REGULATION

OFFICE OF LEGAL SERVICES

HEARINGS DIVISION

In the Matter of

Docket No. 95-0674

JEFFREY EUGENE BURWELL, P.A.

Complaint No. 56-94-0479-00

Issued and entered  
this 15<sup>th</sup> Of March 1996

by

RENEE A. OZBURN  
ADMINISTRATIVE LAW JUDGE

PROPOSAL FOR DECISION

A hearing was held in this matter on October 23, 1995 in the Department of Commerce offices located in Lansing, Michigan. Susan Kreis appeared as counsel on behalf of the Respondent, Jeffrey Burwell. Assistant Attorney General Julie Royce appeared on behalf of the State.

SUMMARY OF PROCEEDINGS:

An Administrative Complaint issued by the Department of Commerce on April 24, 1995 alleges that Mr. Burwell, a licensed physician's assistant diverted controlled substances for his personal use and failed to complete a recommended outpatient treatment program in violation of Sections 16221 (a), (b) (ii), and (c) (iv) of the Public Health Code which provide as follows:

Sec. 16221. The department may investigate activities related to the practice of a health profession by a licensee, applicant, or an original on file in the office of the Department of Commerce, Bureau of Occupational and Professional Regulation, Office of Legal Services, Legal Resources Division

applicant for licensure or registration. The department may hold hearings, administer oaths, and order relevant testimony to be taken and shall report its findings to the appropriate disciplinary subcommittee. The disciplinary subcommittee shall proceed under section 16226 if it finds that any of the following grounds exist:

(a) A violation of general duty, consisting of negligence or failure to exercise due care, including negligent delegation to or supervision of employees or other individuals, whether or not injury results, or any conduct, practice or condition which impairs, or may impair, the ability to safely and skillfully practice the health profession.

(b) Personal disqualifications, consisting of any of the following:

(ii) Subject to sections 16165 to 16170a, substance abuse as defined in section 6107.

(c) Prohibited acts, consisting of any of the following:

(iv) Obtaining, possessing, or attempting to obtain or possess a controlled substance as defined in section 7104 or a drug as defined in section 7105 without lawful authority; or selling, prescribing, giving away, or administering drugs for other than lawful diagnostic or therapeutic purposes.

#### SUMMARY OF EXHIBITS:

##### State Exhibits

Exhibit 1 is a Port Huron Hospital Parkview Recovery Center Discharge Summary on Jeffrey Burwell with cover letter dated January 12, 1995.

Exhibit 2 are results of an evaluation session with Jeffrey Burwell conducted by Henry Ford Health System Maplegrove Center on June 29, 1995.

Exhibit 3 is correspondence from Jeffrey Burwell to Department of Commerce personnel dated May 18, 1995 with a summary of his position regarding his substance abuse problems.

#### **STATE OF MICHIGAN - INGHAM COUNTY**

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Exhibit 4 is correspondence dated May 23, 1995 from the Director of the River District Hospital Counseling Center to Mr. Joseph Campbell of the Department of Commerce regarding Mr. Burwell's treatment at the facility.

**Respondent Exhibits**

Exhibit A is a Michigan Department of Commerce Disciplinary Monitoring Agreement signed by Mr. Burwell on October 20, 1995 (this particular document does not contain the corresponding signature of the PHMS Representative).

Exhibit B is a series of drug screen results conducted on Mr. Burwell covering dates from June 6, 1995 through September 20, 1995.

Exhibit C is a report from Port Huron Hospital Parkview Recovery Center on Mr. Burwell's treatment and substance abuse contract.

Exhibit D is correspondence from Millie Patterson, Director of the Parkview Employee Assistance Program to Dan Angeli D.O., of the Physician Health Care Network of Port Huron Outpatient Medical Clinic dated September 2, 1995 regarding Jeff Burwell.

Exhibit E is a sheet of dates and times from October 2, 1995 through October 23, 1995 with signatures corresponding to the dates and times.

Exhibit F are AA/NA sign-in sheets from mid-August 1995 through mid-October 1995.

Exhibit G is an affidavit of Douglas Krause, M.D., Medical Consultant, Parkview Recovery Center regarding medications prescribed to Mr. Burwell.

In addition to the above exhibits the deposition of Kenneth Schleicher was received as part of the record.

**STATE OF MICHIGAN - INGHAM COUNTY**  
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Further, the record was kept open for submission of an amended monitoring agreement from the Michigan Health Professional Recovery Program (HPRP) entered into by Mr. Burwell and signed by Lee Young November 2, 1995.

By cover memorandum received October 30, 1995 drug screens collected on October 12 and October 19, 1995 were submitted.

### FINDINGS OF FACT

Mr. Burwell graduated from Alderson Broaddus College in West Virginia with a Bachelor of Medical Science in 1992. He worked as a physician's assistant in southern West Virginia for ten months prior to moving to Scottville, Michigan and working for a private physician, Dr. Woltanski, from January 1993 through March 1994. It was while he was employed with Dr. Woltanski that he diverted controlled substances. Dr. Woltanski terminated his employment and reported him to the State.

Mr. Burwell entered the New Life Recovery Center, which is an intensive nine-week outpatient therapy program, in March 1994. He stayed with New Life for five weeks but did not complete their program because he moved to St. Clair county in early May 1994.

Mr. Burwell then sought treatment at Port Huron Hospital Parkview Recovery Program starting in early May 1994. Tom O'Brien was Mr. Burwell's initial therapist at Parkview. However, when Mr. O'Brien left the state Laura Wade became his replacement therapist. Mr. Burwell only talked to Ms. Wade on the phone once before seeking out another therapist.

Lee Young, R.N. runs the State Court of Michigan Health Professional Recovery Program. Ms. Young has been an P.H. for the Department of

has a M.S.W. and she has worked with health care professionals for at least fifteen years. Ms. Young explained the Health Professional Recovery Program (HPRP). When the program approves treatment for an individual under the HPRP a three-year monitoring contract is entered into for reporting to the HPRP board. At the end of the three-year period, if the contract has been complied with the individual health care professional is released with a five-year window. During the contract period a licensee is not sanctioned if there is ongoing compliance.

There is an adjunct Professional Health Management System (PHMS) for individual health professionals who are already in the disciplinary system.

Ms. Young first talked to Mr. Burwell on August 1, 1994. Mr. Burwell indicated that he was willing to enter an HPRP contract and he admitted that he had a substance abuse problem. Ms. Young testified that no treatment plan had been set up between Mr. Burwell and HPRP because while HPRP was trying to get all of the pertinent information prior to designing the contract they learned that Mr. Burwell was not complying with his treatment program at Parkview. Ms. Young then talked again to Mr. Burwell who indicated that he did not think it was necessary for him to enter a contract with HPRP.

The Exhibit 1 document sent to Ms. Young with a cover letter from Laura Wade dated January 12, 1995 was the basis of the determination that Mr. Burwell was not complying with the Parkview program. Specifically in the Parkview Discharge Summary dated December 19, 1994, Ms. Wade's notes indicate that Mr. Burwell had maintained sobriety and has a fair prognosis, and was not fully compliant with the recommendations of the program. Also, contained in Exhibit 1 is a treatment review

STATE OF MICHIGAN - INGHAM COUNTY

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completed by Tom O'Brien in July 1994. Mr. O'Brien indicated that there had not been progress toward goals because Mr. Burwell had not attended sessions, was minimizing recovery needs, was overconfident and complacent and resistant to program suggestions. In another O'Brien report dated October 31, 1994, although it appears that Mr. Burwell was attending sessions Mr. O'Brien still noted that he lacked a regular daily recovery program and support system. A September 2, 1994 review by Mr. O'Brien indicates that denial persists and he still has problems communicating and accepting the need for ongoing treatment.

The last two reviews completed by Mr. O'Brien on October 5 and November 5, 1994 indicate that although denial was diminishing Mr. Burwell was still having problems with communicating and using support systems. Specifically, Mr. O'Brien noted as of November 1994 that the client minimizes his need for a 12-step group support. The report does note that the client has been sober since April 1994 by all evidence. Ms. Wade's report of December 5, 1994 indicates no contact with the client in the last thirty days even though treatment was recommended for six months and beyond. A November 28, 1994 correspondence contained in Exhibit 1 from Ms. Wade to Mr. Burwell indicates that there has been no contact in the past month and notes that he can set up regular sessions through February by contacting her.

Ms. Young indicated that in reviewing the Exhibit 1 documents she was aware that Mr. Burwell was seeking another therapist apparently outside of the Parkview system but she considered this an indication that he may have been trying to shop for a therapist who would agree with his way of recovering. Resistance to treatment is symptomatic of substance abuse disease according to Ms. Young.

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Joseph Campbell is a Department of Commerce Health Professional Investigator who investigates files, negotiates settlements and drafts health professional complaints. He received the Burwell file in February 1995 because of the failure to finalize a contract with HPRP. Mr. Burwell contacted Mr. Campbell May 15, 1995 after the Administrative Complaint was issued in April 1995. Mr. Burwell told Mr. Campbell that he was in a substance abuse treatment program. Mr. Campbell asked for documentation of this prior to the Compliance Conference on June 15, 1995. He received the Exhibit 3 letter dated May 18, 1995. This correspondence is a 5-page handwritten letter by Mr. Burwell explaining his response to the Complaint including some background on his dependency problem and some different treatment options he has tried. Exhibit 4 was also received by Mr. Campbell. Exhibit 4 is a correspondence from Kenneth Schleicher, Director of the River District Hospital Counseling Center dated May 23, 1995 addressed to Mr. Campbell. This correspondence indicates that Mr. Burwell was in ongoing treatment with River District which began February 2, 1995.

Mr. Campbell indicated that a licensee can still enter a nondisciplinary HPRP contract even at the compliance conference stage of what is normally a disciplinary action. However, Mr. Burwell did not want to enter the HPRP contract because it contained a condition that he not work for a period time.

Ms. Young testified that although her agency stopped trying to work out a contract with Mr. Burwell in January 1995, Mr. Burwell contacted her in May 1995 and they renewed discussions regarding an HPRP contract. Exhibit 2 is an evaluation by Maplegrove Center dated June 29, 1995 indicating that Mr. Burwell's recovery program appeared to be self-designed. There was a concern that his addict tendencies and early recovery issues were

**STATE OF MICHIGAN - INGHAM COUNTY**  
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not being confronted. It was recommended that he continue with individual therapy, random drug screens and that he resume attending AA and NA meetings.

In August 1995 Ms. Young referred Mr. Burwell to a health professional group at Port Huron Parkview as an adjunct to his AA/NA meetings but Mr. Burwell did not feel these were necessary. Ms. Young testified that this is not an unusual resistance by health care professionals who tend to rationalize, deny and intellectualize so that they can resist recommended treatment. They often want to design their own recovery plan but the experts have found that this does not work. Mr. Burwell's resistance delayed entering into an HPRP contract again. Mr. Burwell wanted to rely strictly on his religion, which although helpful, is not structured enough to monitor.

Ms. Young noted that the Exhibit 2 Maplegrove evaluation did not recommend that Mr. Burwell be prohibited from working and his drug screens were all negative. Ms. Young believes that if Mr. Burwell complies with the HPRP contract he finally signed on November 1, 1995 she has no reason to believe that he cannot continue to work at his current employment. Ms. Young stated that she did not object to removing any contract language restricting his employment. Actually this language is usually only contained in the PHMS disciplinary contracts.

Mr. Burwell testified that he has been sober since March 1994. He stopped attending the Parkview program in late 1994 because his father was diagnosed with cancer. Although he had been sober for eight months he felt that Antabuse might help him deal with the stress of his father's cancer and the impending holidays so he began seeing Dr. Douglas Krause (Exhibit G) who prescribed Antabuse, Trexan and Prozac.

STATE OF MICHIGAN - INGHAM COUNTY  
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Mr. Burwell acknowledges that between late October 1994 when he had his last therapy with Parkview and early February 1994 when he began therapy with Ken Schleicher he attended sporadic NA and AA meetings.

Mr. Schleicher gave deposition testimony on October 17, 1995. At their initial interview Mr. Burwell indicated that he was not using drugs or alcohol and told Mr. Schleicher that he was taking Antabuse and Naltrexone. Mr. Schleicher and Mr. Burwell developed a recovery plan which was designed around wellness issues including developing a spirituality component, time with family, recreational activities and a life outside of work or substance abuse.

Mr. Burwell was resistant to attending AA groups which he found unpleasant and unproductive. In the beginning Mr. Schleicher did not push the issue of AA attendance as a component of the the recovery plan they developed. However, he told Mr. Burwell that research and common practice suggested that attendance at a support group is always part of a successful recovery. Random urine drug screens were a component of the plan.

Mr. Schleicher ended treatment with Mr. Burwell on or about July 27, 1994. They had initially entered into a 90-day plan back in February and Mr. Schleicher opined that Mr. Burwell had complied with that plan even in the face of the loss of his father and business trips out of the state. The River District program calls for concluding contracts when there are no longer active symptoms. Mr. Schleicher continued to see Mr. Burwell after the 90 days because of Mr. Burwell's concern that the pending State licensing action would want proof that he was in therapy. However, there came a point where River district required termination.

**STATE OF MICHIGAN - INGHAM COUNTY**  
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When the contract was terminated, the plan was for Mr. Burwell to continue to work on communication with his wife, continue random urine drug screens with his employer and continue a healthful diet and exercise program. Mr. Schleicher did not feel that Mr. Burwell was in need of individual therapy when he was discharged although he recommended that he consider AA meetings.

Daniel Angeli, D.O., an E.R. physician who supervises urgent care at the Physician Health Care Network in Port Huron testified that Mr. Burwell started working with Physician Health Care Network (PHN) in July 1994. Mr. Burwell was forthcoming about his substance abuse and entered into an employment contract which included random drug screens.

Exhibit D is the PHN Employee Assistance Program contract which was entered into on October 4, 1995. It is not clear whether Mr. Burwell had a prior Employee Assistance Program contract in effect from the beginning of his employment. However, Exhibit B contains drug screens conducted at PHN from June 1995 through September 20, 1995 which would indicate that at least some screens were conducted prior to the EAP contract. Further, there appears to be a drug screen attached to Exhibit B from September 1994 under Dr. Nasr through the same MetPath laboratory. Mr. Burwell explained that he has had random drug screens since September 1994.

Dr. Angeli supervises Mr. Burwell's work as a physician's assistant at PHN. Dr. Angeli opined that Mr. Burwell is competent at performing his required task of interviewing patients and getting medical histories. He assesses problems with the appropriate medical knowledge. Mr. Burwell is timely and reliable and has good relationships with his coworkers. Dr. Angeli indicated that Mr. Burwell had been interviewed with the Exhibit D PHN

STATE OF MICHIGAN - INGHAM COUNTY  
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contract although it had only been in effect three weeks as of the October hearing date. Dr. Angeli ordered and/or witnessed the drug screens represented by Exhibit B and is willing to continue those screens for purposes of PHN's contract as well as the HPRP contract. PHN is willing to continue its program for two years and longer if required by HPRP.

The PHN (Exhibit D) contract requires that Mr. Burwell participate in weekly 50 minute sessions with counselor Sandra Leech. It also requires that he continue the medications prescribed by Dr. Nasr including the Naltrexone, Antabuse and Effexor which is an antidepressant. Dr. Nasr works with PHN and Dr. Krause at Parkview also monitors his prescriptions. He recently was switched to Prozac as his main antidepressant. Exhibit E is a sheet Mr. Burwell uses to show that he is taking his prescriptions and that they are witnessed. Some of the prescriptions were witnessed by his wife, others by his coworker(s).

Mr. Burwell now attends NA/AA meetings three times a week and has a sponsor. Exhibit F contains sign-in sheets sent to Millie Patterson who oversees the PHN contract since mid-August 1995. Mr. Burwell acknowledges that he felt some difficulty in group settings when he began treatment with Ken Schleicher and since Mr. Schleicher did not push his attendance at these groups he only attended irregularly. However, he and Mr. Schleicher explored his reticence with groups and he has become comfortable enough to attend three times a week and get a sponsor (i.e., Mike Bliss).

Mr. Burwell stated that his substance abuse recovery program is his number one priority to himself, his wife and his children. He now agrees that a formal monitoring program will be helpful to him in his ongoing recovery. In addition to his ongoing HPRP and EAP contracts he deals with related issues such as depression as part of his therapy.

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Resources Division

under the EAP contract with counselor Sandra Leech. He also discusses these issues with Dr. Krause who monitors his Prozac.

Mr. Burwell is more than willing to comply with all terms of the HPRP monitoring agreement as well as the EAP program through his job and is willing to continue therapy, drug screens and AA/NA meetings.

### CONCLUSIONS OF LAW

The Department bears the burden of proving by a preponderance of the evidence that the Respondent violated the Public Health Code as alleged.

There is no dispute that while employed as a physician's assistant for Dr. Timothy Woltanski, M.D. in Scottville, Michigan the Respondent diverted controlled substances which led to Dr. Woltanski reporting him to the State and terminating his employment. The factual allegation regarding the Respondent's failure to comply with a treatment program at Parkview Recovery Center is partially true. He stopped attending therapy at Parkview prior to being formally discharged and with a number of issues surrounding his recovery still needing work. There was a two or three-month period between the time the Respondent left Parkview and began treatment with Mr. Schleicher but all of the various reports from therapists in this matter and the testimony of Mr. Burwell indicate that he has been sober and drug-free since March 1994. Further, although it took over a year to finally draft an HPRP agreement that was acceptable to Mr. Burwell and the Health Professional Recovery Program, that contract is now in effect. He no longer resists any of its terms or denies the need for its required activities including participation in NA/AA support group meetings.

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**The Respondent's diversion of drugs while employed by Dr. Woltanski constitutes a violation of Public Health Code Sections 16221 (a), (b)(ii), and (c)(iv). Therefore, he has violated the Code as alleged in the Complaint as to those facts.**

The majority of the evidence presented at the hearing in October 1995 was in mitigation of any sanctions applied for the above violations. There is no evidence that Mr. Burwell has relapsed in his recovery as it relates to remaining sober since March 1994. He is now participating in the HPRP program through a contract which began on November 2, 1995. There is an adjunct recovery contract which he participates in through his employment at PHN. Therefore, it appears that he has a number of substantive support systems in place to help him maintain his sobriety and to provide monitoring of his overall recovery to the State and his employer. He has apparently been employed with PHN as a physician's assistant for over a year with excellent work evaluations by an employer who knows of his past substance abuse and monitors his progress through a series of drug screens and an employment contract requiring therapy. Ms. Young of the HPRP program indicated that as long as he complies with the HPRP and PHN contracts she sees no need to sanction the Respondent in a manner that would require him to stop working.

**In summary** the Respondent did violate the Public Health Code in his diversion of controlled substances while employed as a physician's assistant in 1994. He has been sober by all evidence since March 1994 and is currently complying with the conditions of two recovery contracts including one where he is monitored on the job.

**STATE OF MICHIGAN - INGHAM COUNTY**

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Within 20 days after service of the Proposal for Decision, a party may file Exceptions thereto and present Written Arguments.

Within 20 days thereafter, an opposing party may file a Response to the Exceptions and Written Arguments.

  
RENEE A. OZBURN  
ADMINISTRATIVE LAW JUDGE

**STATE OF MICHIGAN - INGHAM COUNTY**  
We certify that the foregoing is a true copy of the original on file in the office of the Department of Commerce, Bureau of Occupational and Professional Regulation, Office of Legal Services, Legal Resources Division

**PROOF OF SERVICE**

I hereby certify, to the best of my knowledge, information and belief, that a copy of the foregoing documents were served upon all parties and/or attorneys of record in this matter by mailing same to them at their respective addresses as disclosed by the file, with postage fully prepaid on the 15th day of March, 1996.



Linda Herrmann  
Office of Legal Service

Susan L Kreis  
Attorney at Law  
Maccabee Building  
901 Huron Ave  
Port Huron MI 48060-3706

a copy was sent ID mail to:

Julie K.A. Royce

**STATE OF MICHIGAN - INGHAM COUNTY**

We certify that the foregoing is a true copy of the original on file in the office of the Department of Commerce, Bureau of Occupational and Professional Regulation, Office of Legal Services, Legal Resources Division

STATE OF MICHIGAN  
DEPARTMENT OF COMMERCE  
BUREAU OF OCCUPATIONAL AND PROFESSIONAL REGULATION  
MICHIGAN TASK FORCE ON PHYSICIAN'S ASSISTANTS

In the Matter of

JEFFREY EUGENE BURWELL, P.A.  
\_\_\_\_\_ /

ADMINISTRATIVE COMPLAINT

NOW COMES the Michigan Department of Commerce, Bureau of Occupational and Professional Regulation, Complainant herein, by Thomas C. Lindsay II, Director, Office of Health Services, and hereby files the within complaint against Jeffrey Eugene Burwell, P.A., hereafter Respondent, alleging upon information and belief as follows:

1. The Michigan Task Force on Physician's Assistants, hereafter Task Force, an administrative agency established by the Public Health Code, 1978 PA 368, as amended; MCL 333.1101 et seq; MSA 14.15(1101) et seq, is empowered to discipline licensees thereunder.

2. Respondent is currently licensed to practice as a physician's assistant in the State of Michigan.

3. Xanax and Darvocet are Schedule 4 controlled substances. Tenex, Toradol, Deconsal, Paxil, Entex, Imodium and Serenone are prescription medications.

STATE OF MICHIGAN - INGHAM COUNTY

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4. At all times pertinent hereto, Respondent was employed as a physician's assistant by Timothy R. Woltanski, M.D. in Scottville, Michigan.

5. By his own admission on March 14, 1994, Respondent diverted an undetermined amount of Xanax and Darvocet from his place of business for personal use. Respondent also admitted to diverting an undetermined amount of the following prescription medications from his place of business: Tenex, Toradol, Deconsal, Paxil, Entex, Imodium and Seldane.

6. On May 5, 1994, Respondent began outpatient treatment at Parkview Recovery Center in Port Huron, Michigan and was diagnosed as suffering from alcohol, opioid and barbiturate dependence. On October 25, 1994, Respondent was discharged from Parkview Recovery Center for not complying with his therapist's recommended treatment to attend individual and group therapy sessions and Caduceus meetings.

7. From approximately July 6, 1994, to approximately January 25, 1995, the Department has attempted to enter into a nondisciplinary monitoring agreement with Respondent; Respondent has declined this offer.

#### COUNT I

Respondent's conduct, as set forth above, evidences a violation of general duty, consisting of negligence or failure to exercise due care, including negligence in the supervision of employees or other individuals, whether or not professional and/or

conduct, practice, or condition which impairs, or may impair, the ability to safely and skillfully practice the health profession, in violation of section 16221(a) of the Public Health Code, supra.

COUNT II

Respondent's conduct, as set forth above, evidences substance abuse, in violation of section 16221(b)(ii) of the Public Health Code, supra.

COUNT III

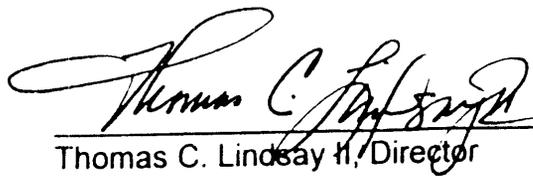
Respondent's conduct, as set forth above, constitutes and/or evidences obtaining, possessing, or attempting to obtain or possess a controlled substance as defined in section 7104 or drug as defined in section 7105 without lawful authority, and/or selling, prescribing, giving away or administering drugs for other than lawful diagnostic or therapeutic purposes, in violation of section 16221(c)(iv) of the Public Health Code, supra.

WHEREFORE, Complainant requests that the within complaint be served upon Respondent and that Respondent be offered an opportunity to show compliance with all lawful requirements for retention of the license. If compliance is not shown, Complainant further requests that formal proceedings be commenced pursuant to the Public Health

**STATE OF MICHIGAN - INGHAM COUNTY**

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Code, supra, rules promulgated pursuant thereto, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 et seq; MSA 3.560(101) et seq.



Thomas C. Lindsay II, Director  
Office of Health Services  
Bureau of Occupational and  
Professional Regulation

DATED: *April 24, 1995*

This is the last and final page of an Administrative Complaint in the matter of Jeffrey Eugene Burwell, P.A., before the Michigan Task Force on Physician's Assistants, consisting of four(4) pages, this page included.

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STATE OF MICHIGAN - INGHAM COUNTY  
The foregoing is a true copy of the  
original in the office of the Department of  
Health, Bureau of Occupational and Profess  
ional Regulation, Office of Legal Services, Legal  
Division

**CONSENT AGREEMENT  
BETWEEN  
JEFFREY E. BURWELL, P.A.  
AND  
THE STATE MEDICAL BOARD OF OHIO**

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This CONSENT AGREEMENT is entered into by and between JEFFREY E. BURWELL, P.A., and THE STATE MEDICAL BOARD OF OHIO, a state agency charged with enforcing Chapter 4730., Ohio Revised Code.

JEFFREY E. BURWELL, P.A., enters into this CONSENT AGREEMENT being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

This CONSENT AGREEMENT is entered into on the basis of the following stipulations, admissions and understandings:

- A. THE STATE MEDICAL BOARD OF OHIO is empowered by Section 4730.25(B), Ohio Revised Code, to limit, revoke, or suspend a certificate of registration as a physician assistant, refuse to issue a certificate to an applicant, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for violations of Section 4730.25(B)(5), Ohio Revised Code, "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," and Section 4730.25(B)(18), Ohio Revised Code, "the limitation, revocation, or suspension by another state of a license, certificate, or registration to practice issued by the proper licensing authority of that state, the refusal to license, certify, register, or reinstate an applicant by that authority, the imposition of probation by that authority, or the issuance of an order of censure or other reprimand by that authority for any reason, other than nonpayment of fees."
  
- B. THE STATE MEDICAL BOARD OF OHIO enters into this CONSENT AGREEMENT in lieu of formal proceedings based upon the violations of Sections 4730.25(B)(5) and (B)(18), Ohio Revised Code, as set forth in Paragraphs D and E below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4730. of the Revised Code, whether occurring before or after the effective date of this Agreement.

- C. JEFFREY E. BURWELL, P.A., is applying for registration as a physician assistant in the State of Ohio.
- D. JEFFREY E. BURWELL, P.A., ADMITS he suffers from opiate dependence, barbiturate dependence, and alcohol dependence. MR. BURWELL further ADMITS that he was convicted of driving under the influence, in or about March 1989, in Lancaster, Ohio, and that for a period of time in and/or before March 1994, he diverted controlled substances, including Vicodin, Xanax, and cough syrup with codeine, from the family practice clinic in Ludington, Michigan, at which he was employed as a physician assistant.

Further, MR. BURWELL ADMITS that in or about March 1994 he entered an intensive outpatient program at New Life Recovery Center in Ludington, Michigan, and STATES that he completed approximately five weeks of such program before moving to another area. MR. BURWELL further ADMITS that he then began individual therapy at Port Huron Hospital in Port Huron, Michigan, in or about May 1994, and that he discontinued such therapy in or about November 1994 when his therapist left such facility.

Further, MR. BURWELL ADMITS that he participated in individual therapy sessions at the River District Counseling Center in Clare, Michigan, from in or about February 1995 through in or about July 1995, at which time he was discharged. MR. BURWELL further ADMITS that he entered the Parkview Recovery Program at Port Huron Hospital, in Port Huron, Michigan, on or about September 28, 1995, and STATES that he continues in such program.

Further, MR. BURWELL STATES that he has participated in the Employee Assistance Program in Port Huron, Michigan, and has been involved in a monitoring agreement with his employer, Physician's Health Care Network, since in or about October 1995. MR. BURWELL further STATES that he has been involved in a monitoring agreement with the Michigan Health Professional Recovery Program, and/or its successor monitoring entities, since in or about November 1995. MR. BURWELL further STATES that he has been fully compliant with terms of the aforementioned monitoring agreements.

Further, MR. BURWELL ADMITS that he has been using Antabuse and Trexan daily, as prescribed by his physician, since in or about early 1995. MR. BURWELL STATES that he has maintained sobriety since March 1994.

- E. MR. BURWELL ADMITS that on or about April 24, 1995, the Michigan Department of Commerce, Bureau of Occupational and Professional Regulation, issued an Administrative Complaint charging him with violations of Sections 16221(a), (b)(ii), and (c)(iv), of the Michigan Public Health Code, based upon his having diverted controlled substances for his own use and having failed to complete the recommended substance abuse treatment, as described above. MR. BURWELL further ADMITS that thereafter, on or about July 22, 1996, the Michigan Department of Consumer and Industry Services, Bureau of Occupational and Professional Regulation, Task Force on Physician's Assistants issued a Final Order in which he was assessed a fine of \$2,000.00 and his registration to practice as a Physician's Assistant in the State of Michigan was placed on probation for a period of three (3) years. Copies of such Administrative Complaint and Final Order are attached hereto and incorporated herein.

MR. BURWELL STATES that he has been fully compliant with the terms of his Michigan probation.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, JEFFREY E. BURWELL, P.A., shall be granted registration as a physician assistant in the State of Ohio upon receipt and appropriateness of necessary documentation, and knowingly and voluntarily agrees with THE STATE MEDICAL BOARD OF OHIO, (hereinafter BOARD), to the following PROBATIONARY terms, conditions and limitations:

1. MR. BURWELL shall obey all federal, state and local laws, and all rules governing the practice of physician assistants in Ohio;
2. MR. BURWELL shall submit quarterly declarations under penalty of BOARD disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this CONSENT AGREEMENT. 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 consent agreement 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;
3. MR. BURWELL shall appear in person for quarterly interviews before the BOARD or its designated representative, or as otherwise directed 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. (Example: The first quarterly appearance is scheduled for February, but based upon the doctor's serious personal illness she is permitted to delay appearance until April. The next appearance will still be scheduled for May, three months after the appearance as originally scheduled.) Although the BOARD will normally give MR. BURWELL written notification of scheduled appearances, it is MR. BURWELL's responsibility to know when personal appearances will occur. If she does not receive written notification from the BOARD by the end of the month in which the appearance should have occurred, MR. BURWELL shall immediately submit to the BOARD a written request to be notified of his next scheduled appearance;

4. In the event that MR. BURWELL should leave Ohio for three (3) continuous months, or reside or practice outside the State, MR. BURWELL 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 period under the CONSENT AGREEMENT, unless otherwise determined by motion of the BOARD in instances where the BOARD can be assured that probationary monitoring is otherwise being performed;
5. In the event MR. BURWELL is found by the Secretary of the BOARD to have failed to comply with any provision of this CONSENT AGREEMENT, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under the CONSENT AGREEMENT;
6. MR. BURWELL shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of MR. BURWELL's history of chemical abuse;
7. MR. BURWELL shall abstain completely from the use of alcohol;
8. MR. BURWELL shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the BOARD. MR. BURWELL 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;

Within thirty (30) days of the effective date of this CONSENT AGREEMENT, MR. BURWELL shall submit to the BOARD for its prior approval the name of a supervising physician to whom MR. BURWELL

shall submit the required urine specimens. 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;

MR. BURWELL 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 CONSENT AGREEMENT, 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. BURWELL must immediately notify the BOARD in writing, and make arrangements acceptable to the BOARD for another supervising physician as soon as practicable. MR. BURWELL 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. BURWELL's quarterly declaration. It is MR. BURWELL's responsibility to ensure that reports are timely submitted;

9. The BOARD retains the right to require, and MR. BURWELL agrees to submit, blood or urine specimens for analysis at MR. BURWELL's expense upon the BOARD's request and without prior notice. MR. BURWELL's refusal to submit a blood or urine specimen upon request of the BOARD shall result in a minimum of one year of actual registration suspension;
10. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, MR. BURWELL shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or Caduceus, no less than three (3) times per week. Substitution of any other specific program must receive prior BOARD approval;

MR. BURWELL shall submit with each quarterly declaration required under Paragraph 2 of this CONSENT AGREEMENT acceptable documentary evidence of continuing compliance with this program;

11. MR. BURWELL shall obtain the approval of the BOARD for any practice or employment related to the health care fields. The BOARD shall consider, among other factors, the adequacy and continuity of supervision and the feasibility of restricted access to controlled substances, which will ensure the protection of the public, prior to approval or disapproval of the proposed employment;
12. MR. BURWELL shall contact an appropriate impaired professionals committee, approved by the BOARD, to arrange for assistance in recovery or aftercare;
13. MR. BURWELL shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided, that where terms of the aftercare contract conflict with terms of this CONSENT AGREEMENT, the terms of this CONSENT AGREEMENT shall control;
14. MR. BURWELL shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment provider 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;
15. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, MR. BURWELL shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he is under contract to provide services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, MR. BURWELL shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he contracts to provide services, or applies for or receives training, and the chief of staff at each hospital where he applies for or obtains privileges or appointments; and,
16. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, MR. BURWELL shall provide a copy of this CONSENT AGREEMENT by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he is currently registered to practice. MR. BURWELL further agrees to provide a copy of this CONSENT AGREEMENT by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for registration or reinstatement of registration. Further, MR. BURWELL shall provide this BOARD with a copy of the return receipt as proof of notification within thirty (30) days of receiving that return receipt.

17. MR. BURWELL AGREES that if any declaration or report required by this agreement is not received in the BOARD's offices on or before its due date, MR. BURWELL shall cease practicing beginning the day next following receipt from the BOARD of notice of non-receipt, either by writing, by telephone, or by personal contact, until the declaration or report is received in the BOARD offices. Any practice during this time period shall be considered unlicensed practice in violation of Section 4730.02 and/or Section 4731.41 of the Revised Code.
18. MR. BURWELL AGREES that if, without prior permission from the BOARD, he fails to submit to random screenings for drugs and alcohol at least as frequently as required by Paragraph 8 of this CONSENT AGREEMENT, he shall cease practicing immediately upon receipt from the BOARD of notice of the violation and shall refrain from practicing for thirty (30) days for the first instance of a single missed screen. Practice during this time period shall be considered unlicensed practice in violation of Section 4730.02 and/or Section 4731.41 of the Revised Code.
19. MR. BURWELL AGREES that if he fails to participate in an alcohol and drug rehabilitation program at least as frequently as required by Paragraph 10 of this CONSENT AGREEMENT, he shall cease practicing immediately upon receipt from the BOARD of notice of the violation, and shall refrain from practicing for fifteen (15) days following a first missed meeting. Practice during this time period shall be considered unlicensed practice in violation of Section 4730.02 and/or Section 4731.41 of the Revised Code.

This CONSENT AGREEMENT shall remain in force for a minimum of two (2) year prior to any request for termination of said CONSENT AGREEMENT. Otherwise, the above described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

If, in the discretion of the Secretary and Supervising Member of the BOARD, MR. BURWELL appears to have violated or breached any term or condition of this CONSENT AGREEMENT, the BOARD reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including, but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Agreement.

If the Secretary and Supervising Member of the BOARD determine that there is clear and convincing evidence that MR. BURWELL has violated any term, condition or limitation of this CONSENT AGREEMENT, MR. BURWELL agrees that the violation, as alleged, also constitutes clear and convincing evidence that his continued practice presents a danger of immediate and serious harm to the public for purposes of initiating a summary suspension pursuant to Section 4730.25(E), Ohio Revised Code.

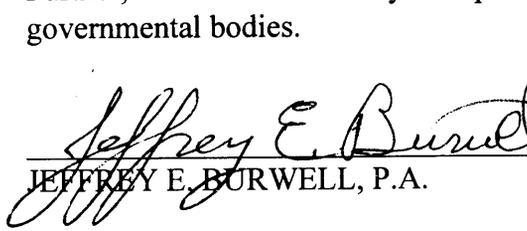
MR. BURWELL acknowledges that he has had an opportunity to ask questions concerning the terms of this CONSENT AGREEMENT and that all questions asked have been answered in a satisfactory manner.

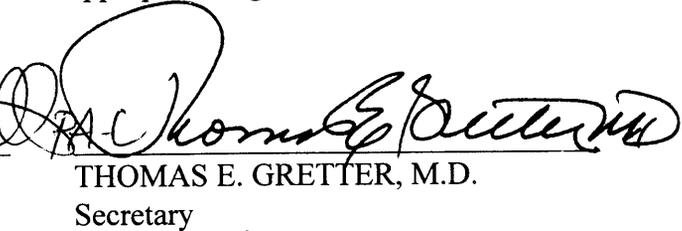
Any action initiated by the BOARD based on alleged violations of this CONSENT AGREEMENT shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

MR. BURWELL hereby releases THE STATE MEDICAL BOARD OF OHIO, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This CONSENT AGREEMENT shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. It is expressly understood that this CONSENT AGREEMENT is subject to ratification by the BOARD prior to signature by the Secretary and Supervising Member and that it shall become effective upon the last date of signature below.

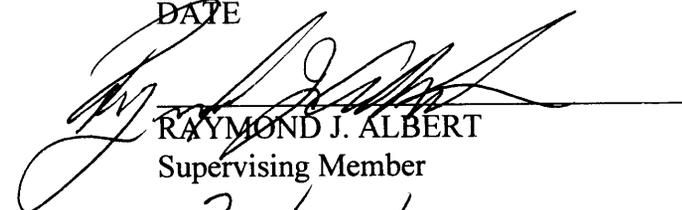
Further, this information may be reported to appropriate organizations, data banks and governmental bodies.

  
JEFFREY E. BURWELL, P.A.

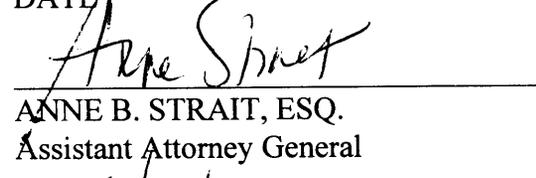
  
THOMAS E. GRETTER, M.D.  
Secretary

2-3-97  
DATE

2/12/97  
DATE

  
RAYMOND J. ALBERT  
Supervising Member

2/12/97  
DATE

  
ANNE B. STRAIT, ESQ.  
Assistant Attorney General

2/12/97  
DATE

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