# State Medical Board of Ohio

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


December 13, 2000

Timothy D. Eastburn, P.A.
1251 Marina Point, Apt. 201
Casselberry, FL 32707

Dear Mr. Eastburn:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on December 13, 2000, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

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

THE STATE MEDICAL BOARD OF OHIO

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. Z 281 981 487
RETURN RECEIPT REQUESTED

Mailed 12-14-00

## CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on December 13, 2000, 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 Timothy D. Eastburn, 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)

DECEMBER 13, 2000
Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF *

*

TIMOTHY D. EASTBURN, P.A. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on December 13, 2000.

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

It is hereby ORDERED that:

The certificate of Timothy D. Eastburn, P.A., to practice as a physician assistant in the State of Ohio shall be PERMANENTLY REVOKED.

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

Anand G. Garg, M.D.
Secretary

(SEAL)

DECEMBER 13, 2000
Date

STATE MEDICAL BOARD
OF OHIO

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# REPORT AND RECOMMENDATION
# IN THE MATTER OF TIMOTHY D. EASTBURN, P.A.

The Matter of Timothy D. Eastburn, P.A., was heard by Sharon W. Murphy, Attorney Hearing Examiner for the State Medical Board of Ohio, on July 6, 2000.

## INTRODUCTION

I. Basis for Hearing

A. By letter dated April 5, 2000, the State Medical Board of Ohio [Board] notified Timothy D. Eastburn, P.A., that it had proposed to take disciplinary action against his certificate to practice as a physician assistant in Ohio. The Board's proposed action was based on a Final Order issued in an action against Mr. Eastburn by the South Carolina State Board of Medical Examiners [South Carolina Board].

The Board alleged that the South Carolina Board Final Order constitutes "'[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 in used in Section 4730.25(B)(18), Ohio Revised Code."

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

B. On May 1, 2000, Mr. Eastburn submitted a written hearing request. (State's Exhibit 1B).

II. Appearances

A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Rebecca J. Albers, Assistant Attorney General.

B. On behalf of the Respondent: Mr. Eastburn, having been apprised of his right to attend the hearing or to be represented by counsel, did not appear in person, by representation, or by submission of documents.

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## EVIDENCE EXAMINED

I. Testimony Heard

None

II. Exhibits Examined

A. State's Exhibits 1A-1F and 3: Procedural exhibits.

B. State's Exhibit 2: Certified copies of documents maintained by the South Carolina State Board of Medical Examiners in *In the Matter of Timothy D. Eastburn, P.A.*

## PROCEDURAL MATTERS

The record in this matter was held open at the request of the Hearing Examiner, to allow the State to present evidence that the Respondent had been notified of the date of the hearing. On July 24, 2000, the State presented a copy of the certified mail receipt noting that delivery of the scheduling letter had been made on May 15, 2000. It was admitted to the record as State's Exhibit 3. Subsequently, the hearing record closed.

## SUMMARY OF THE EVIDENCE

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

1. On or about July 26, 1999, in *In the Matter of Timothy D. Eastburn, P.A.*, the South Carolina State Board of Medical Examiners [South Carolina Board] issued a Final Order. The South Carolina Board's Final Order indefinitely suspended the certificate of Timothy D. Eastburn, P.A., to practice as a physician assistant in that state. (St. Ex. 2). In the Final Order, the South Carolina Board made the following Findings of Fact:

   a. Between February 25 and August 27, 1998, while working as a physician assistant in Sarasota, Florida, Mr. Eastburn "engaged in a scheme to obtain, by deception and fraud, controlled substances for [Mr. Eastburn's] own use."

      Mr. Eastburn wrote fraudulent prescriptions naming himself as the patient. The prescriptions bore "the forged or misappropriated signature" of Mr. Eastburn 's supervising physician. Mr. Eastburn also intercepted telephone calls from a pharmacist who had called the supervising physician to confirm the validity of the prescriptions

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posing as his supervising physician and fraudulently confirmed the authenticity of the prescriptions.

b. On at least one occasion, Mr. Eastburn personally called the pharmacy, posing as his supervising physician; and obtained Xanax, a Schedule IV controlled substance.

c. By fraudulent practices, Mr. Eastburn obtained controlled substances including, but not limited to, Xanax; Dexedrine, a Schedule II controlled substance; and Fioricet with codeine, a Schedule III controlled substance.

d. On or about October 1, 1998, Mr. Eastburn was arrested in the State of Florida based on his obtaining controlled substances for his own use by fraudulent practices.

e. On or about November 4, 1998, Mr. Eastburn was arrested in the State of Florida for solicitation of prostitution.

f. Mr. Eastburn entered a Plea of Nolo Contendere February 22, 1999, in the Twelfth Judicial Circuit for Manatee County, Florida, to sixteen counts of acquiring or attempting to acquire possession of controlled substances by misrepresentation, fraud, forgery, deception, or subterfuge, in violation of Section 893.13(7)(a)(9), Florida Statutes. Mr. Eastburn was convicted of a third degree felony.

g. On April 15, 1999, the State of Florida summarily suspended Mr. Eastburn's certificate to practice in that state, pending formal disciplinary proceedings resulting from his criminal convictions.

h. On January 5, 1999, Mr. Eastburn submitted an application for a certificate to practice as a physician assistant in South Carolina. In the application, Mr. Eastburn falsely represented that: he "had never been arrested, charged, or indicted"; he had not worked as a physician assistant since July 1997; and he had been employed only in a non-medical capacity since July 1997. Moreover, in the application, Mr. Eastburn failed to include Florida among the states in which he held a certificate to practice as a physician assistant. The South Carolina Board found that Mr. Eastburn had committed fraud in his Application for Certification to Practice as a Physician Assistant in South Carolina.

i. Mr. Eastburn admitted to all of the conduct set forth in the South Carolina Board's Findings of Fact.

(St. Ex. 2 at 1-3).

2. In the Final Order, the South Carolina Board approved the following Conclusions of Law:

a. Mr. Eastburn had violated South Carolina law.

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b. Mr. Eastburn lacks the ethical competency to act as a physician assistant.

c. Mr. Eastburn was guilty of dishonorable or unethical conduct likely to deceive or harm patients.

(St. Ex. 2 at 3-5).

## FINDINGS OF FACT

1. On July 26, 1999, in *In the Matter of Timothy D. Eastburn, P.A.*, the South Carolina State Board of Medical Examiners [South Carolina Board] issued a Final Order indefinitely suspending the certificate of Timothy D. Eastburn, P.A., to practice as a physician assistant in that state.

2. In its Final Order, the South Carolina Board made Findings of Fact, which include the following:

   a. During the course of his employment as a physician assistant in Florida between February 25 and August 27, 1998, Mr. Eastburn engaged in a scheme to obtain, by fraud and deception, controlled substances for his own use. Mr. Eastburn wrote fraudulent prescriptions naming himself as the patient and bearing the forged or misappropriated signature of his supervising physician. Mr. Eastburn also intercepted telephone calls intended for his supervising physician from a questioning pharmacist. During the telephone conversations, Mr. Eastburn posed as his supervising physician to confirm the fraudulent prescriptions. By these fraudulent activities, Mr. Eastburn obtained controlled substances which included, but were not limited to: Xanax, a Schedule IV controlled substance; Dexedrine, a Schedule II controlled substance; and Fioricet with codeine, a Schedule III controlled substance.

   b. Mr. Eastburn entered a Plea of Nolo Contendere on February 22, 1999, in the Twelfth Judicial Circuit for Manatee County, Florida. Mr. Eastburn entered his plea to sixteen counts of acquiring or attempting to acquire possession of controlled substances by misrepresentation, fraud, forgery, deception, or subterfuge, in violation of Section 893.13(7)(a)(9), Florida Statutes. Subsequently, Mr. Eastburn was convicted of a third degree felony.

   c. Mr. Eastburn committed fraud in his January 5, 1999, Application for Certification to Practice as a Physician Assistant in South Carolina by falsely representing that he had never been arrested, charged or indicted, for violation of federal, state, or local law. In fact, Mr. Eastburn had been arrested, on or about October 1, 1998, for the conduct

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leading to the felony conviction above. In addition, Mr. Eastburn had been arrested, on or about November 12, 1998, for solicitation of prostitution.

d. Mr. Eastburn committed fraud in his January 5, 1999, Application for Certification to Practice as a Physician Assistant in South Carolina by providing false answers as to previous employment and by failing to reveal his employment as a physician assistant in Florida between November 1997 and August 1998.

3. Mr. Eastburn admitted to all of the conduct set forth in the Findings of Fact of the South Carolina Board's Final Order.

4. The South Carolina Board's Final Order included Conclusions of Law, in which the South Carolina Board concluded that Mr. Eastburn lacks the ethical competency to act as a physician assistant. In addition, the South Carolina Board concluded that Mr. Eastburn was guilty of dishonorable or unethical conduct likely to deceive or harm patients.

## CONCLUSIONS OF LAW

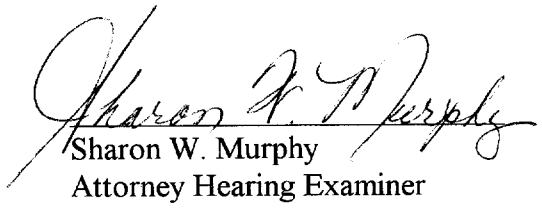
The July 26, 1999, Final Order issued by the South Carolina State Board of Medical Examiners in *In the Matter of Timothy D. Eastburn, P.A.*, as set forth in the Findings of Fact, constitutes "[a]ny of the following actions taken by the state agency responsible for regulating the practice of physician 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 in used in Section 4730.25(B)(18), Ohio Revised Code.

## PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Timothy D. Eastburn, P.A., to practice as a physician assistant in the State of Ohio shall be PERMANENTLY REVOKED.

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



Sharon W. Murphy
Attorney Hearing Examiner

# State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF DECEMBER 13, 2000

REPORTS AND RECOMMENDATIONS

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

Dr. Egner asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of Timothy D. Eastburn, P.A.; Mark A. Levine, M.D.; Michael Francis Livingston, M.T.; Abdolvahab Steven Pirnia, M.D.; Lawrence Rossiter, D.O.; Don R. Shegog, M.D.; and Richard S. Simon, M.D. A roll call was taken:

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

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

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| ROLL CALL: | Mr. Albert | - aye |
| | Dr. Bhati | - aye |
| | Dr. Talmage | - aye |
| | Dr. Somani | - aye |
| | Dr. Buchan | - aye |
| | Mr. Browning | - aye |
| | Ms. Sloan | - aye |
| | Dr. Stienecker | - aye |
| | Dr. Garg | - aye |

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|---|---|
| Dr. Steinbergh | - aye |
| Dr. Egner | - aye |

Dr. Egner noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters.

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

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

.....

TIMOTHY D. EASTBURN, P.A.

.....

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF TIMOTHY D. EASTBURN, P.A. DR. SOMANI SECONDED THE MOTION.** A vote was taken:

| | | |
|---|---|---|
| VOTE: | Mr. Albert | - abstain |
| | Dr. Bhati | - aye |
| | Dr. Talmage | - aye |
| | Dr. Somani | - aye |
| | Dr. Buchan | - aye |
| | Mr. Browning | - aye |
| | Ms. Sloan | - aye |
| | Dr. Stienecker | - aye |
| | Dr. Garg | - abstain |
| | Dr. Steinbergh | - aye |
| | Dr. Egner | - aye |

The motion carried.

# State Medical Board of Ohio

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


April 5, 2000

Timothy D. Eastburn, P.A.
622 Quaker Ridge #203
Toledo, Ohio 43615

Dear Mr. Eastburn:

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 July 26, 1999, the South Carolina Board of Medical Examiners (hereinafter the "South Carolina Board") issued a Final Order indefinitely suspending your South Carolina license to practice as a Physician Assistant.

The acts underlying the South Carolina Board Final Order are that you entered a Plea of Nolo Contendere February 22, 1999, in the Twelfth Judicial Circuit for Manatee County, Florida, to sixteen counts of acquiring or attempting to acquire possession of controlled substances by misrepresentation fraud, forgery, deception or subterfuge in violation of Section 893.13(7)(a)(9), Florida Statutes, and were convicted of a third degree felony.

The South Carolina Board found that, during the course of your employment as a Physician Assistant in Florida between approximately February 25, 1998 and August 27, 1998, you engaged in a scheme to obtain, by fraud and deception, controlled substances for your own use by writing fraudulent prescriptions naming yourself as the patient and bearing the forged or misappropriated signature of your supervising physician. You also intercepted telephone calls for that physician from a questioning pharmacist and fraudulently posed as the physician to confirm the fraudulent prescriptions.

The controlled substances included, but were not limited to, Xanax, a Schedule IV controlled substance, Dexedrine, a Schedule II controlled substance and Fiorcet with codeine, a Schedule III controlled substance. The South Carolina Board further found that you had been convicted of a third degree felony, following your plea of Nolo Contendere on sixteen counts of acquiring or

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attempting to acquire possession of controlled substances by misrepresentation, fraud, forgery, deception or subterfuge.

The South Carolina Board further found that you committed fraud in your January 15, 1999, Application for Certification to Practice as a Physician Assistant in South Carolina by falsely representing that you had never been arrested, charged or indicted, for violation of federal, state, or local law. You also provided false answers as to previous employment by failure to reveal your employment as a Physician Assistant in Florida between November 10, 1997 and August 31, 1998. Further you were arrested, on or about October 1, 1998, in Florida for the conduct leading to the felony conviction above, and also arrested, on or about November 12, 1998, in Florida for solicitation of prostitution.

You admitted to all of the conduct provided in the South Carolina Board's Findings of Fact in the Final Order. The South Carolina Board's Final Order included in their Conclusions of Law, that you lack the ethical competency to act as a phsycian assistant and that you were guilty of dishonorable or unethical conduct likely to decieve or harm patients. A copy of the South Carolina Board Final Order is attached hereto and fully incorporated herein.

The South Carolina Board Final Order as alleged in paragraph (1) above, individually and/or collectively, constitutes "[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 in used in Section 4730.25(B)(18), Ohio Revised Code.

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

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke or suspend

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

Please note that, whether or not you request a hearing, Section 4730.25(L), Ohio Revised Code, effective March 9, 1999, provides that "[w]hen the board refuses to grant a certificate of registration as a physician assistant to an applicant, revokes an individual's certificate of registration, refuses to issue a certificate of registration, or refuses to reinstate an individual's certificate of registration, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate of registration as a physician assistant and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,

Anand G. Garg, M.D.
Secretary

AGG/jag
Enclosures

CERTIFIED MAIL # Z 281 981 516
RETURN RECEIPT REQUESTED

cc: 9654 N. Kings Highway #151
Myrtle Beach, South Carolina 29572-4040

CERTIFIED MAIL # Z 281 981 515
RETURN RECEIPT REQUESTED

STATE MEDICAL BOARD
NOV 1 5 1999

# BEFORE THE SOUTH CAROLINA STATE BOARD OF MEDICAL EXAMINERS

| | | |
|---|---|---|
| In the Matter of: | ) | |
| | ) | |
| Timothy D. Eastburn, P.A., | ) | |
| | ) | **FINAL ORDER** |
| License #A542, | ) | |
| | ) | |
| (M-57-99) Respondent. | ) | |
| | ) | |

This matter came before the Board of Medical Examiners (the Board) for hearing on July 20, 1999, as a result of the Notice and Complaint served upon the Respondent and filed on June 23, 1999 and the Memorandum of Agreement agreed to by the Respondent in July 1999. A quorum of Board members was present. The hearing was held pursuant to S.C. Code Ann. §40-1-90 (Supp. 1998) and 26 S.C. Code Ann. Reg. 81-100L(Supp. 1998) to determine whether sanctions should be imposed based upon the Memorandum of Agreement. Robert M. Wood, Esquire, represented the State. William T. Moody, Esquire, represented the Respondent.

The Respondent was charged with violation of Regulations No. 81-100L (2), (5), (7), (8), (10), and (11)(Supp. 1998) of the Rules and Regulations of the Board.

## FINDINGS OF FACT

Based upon the preponderance of the evidence on the whole record, the Board finds the facts of the case to be as follows:

1. The Respondent is a physician assistant licensed to practice in South Carolina. The Respondent's certification was temporarily suspended by order dated April 28, 1999.

2. On or about November 10, 1997, Respondent commenced employment as a Physician Assistant in Sarasota, Florida. Respondent's supervising physician was Harold Tabaie, D.O. Respondent resigned this position effective August 31, 1998.

3. Between approximately February 25 and August 27 of 1998, and in the course of Respondent's employment as a Physician Assistant, Respondent engaged in a scheme to obtain, by fraud and deception, controlled substances for Respondent's own use.

4. In furtherance of this scheme, it was Respondent's pattern and practice to write fraudulent prescriptions naming Respondent as the patient and bearing the forged or misappropriated signature of Respondent's supervising physician, Dr. Tabaie. On several occasions, Respondent

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intercepted telephone calls to Dr. Tabaie by a pharmacist who was attempting to confirm the validity of prescriptions. Respondent would pose as Dr. Tabaie, fraudulently confirming the prescriptions. Additionally, on at least one occasion, Respondent telephoned a prescription for himself, posing as Dr. Tabaie, thereby obtaining forty units of Alprazolam 1mg (Xanax), a Schedule IV controlled substance.

5. Through Respondent's fraudulent practices, Respondent obtained controlled substances including, but not limited to, Xanax, a Schedule IV controlled substance, Dexedrine, a Schedule II controlled substance, and Fioricet with codeine, a Schedule III controlled substance.

6. Respondent was arrested by the State of Florida regarding the above conduct on or about October 1, 1998. Further, on or about November 12, 1998, Respondent was arrested for solicitation of prostitution.

7. On or about November 4, 1998, Respondent was charged in Florida, by information, with sixteen counts of acquiring or attempting to acquire possession of controlled substances by misrepresentation, fraud, forgery, deception or subterfuge, in violation of § 893.13(7)(a)9, Florida Statutes. (Case No. 98-2664F, Twelfth Judicial Circuit for Manatee County, Florida).

8. On or about February 22, 1999, Respondent entered a plea of Nolo Contendere on all counts in Florida Case Number 98-2664F.

9. Under Florida law, Respondent has been convicted of a third degree felony. Under South Carolina law, Respondent's conviction constitutes conviction of a crime of moral turpitude, in that it involves an element of fraud. State v. Horton 248 S.E.2d 263, 271 S.C. 413 (S.C. 1978).

10. By order dated April 15, 1999, the State of Florida summarily suspended Respondent's license in that State to practice as a physician assistant, pending formal disciplinary proceedings arising from Respondent's criminal convictions.

11. On January 5, 1999, the Board received Respondent's Application for Certification to Practice as a Physician Assistant in South Carolina.

12. Respondent's signature on the Affidavit section of the application (Part VI), pursuant to which Respondent attested all statements in the application were true and correct and answered without reservation, was dated December 28, 1998.

13. Respondent's signature on the Personal Data section of the application (Part IV) was dated January 1, 1998. Upon information and belief, this date was a scrivener's error and was intended by Respondent to indicate a signature date of January 1, 1999.

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14. Respondent's answer to question 12 of Part IV of the application falsely represented Respondent had never been arrested, charged, or indicted for violation of federal, state, or local law as of the date of his signature.

15. Respondent's written explanation for his answer of "yes" to question 11 of Part IV of the application, which asks whether the applicant has ever discontinued practice as a physician assistant for any reason for at least one month, falsely represented Respondent last worked as a physician assistant in July of 1997.

16. Respondent's list of employment activities in Part II of the application failed to reveal his employment as a physician assistant in Florida during the period between November 10, 1997, and August 31, 1998, and falsely represented Respondent was employed solely in a non-medical position in Pennsylvania between July 4, 1997, and the date of Respondent's application to the Board.

17. In the same section of Respondent's application, Respondent's list of all states in which he was or had been licensed or certified failed to indicate his certification as a physician assistant in the State of Florida.

18. Respondent admitted the conduct above, and admitted that the conduct constituted violations of S.C. Code Ann. 26 S.C. Code Ann. Reg. 81-100L.(2), (5), (7), (8), (10), and (11) (Supp. 1998), and presented grounds that constitute misconduct under Regulation 81-100L, as alleged.

## CONCLUSIONS OF LAW

Based upon careful consideration of the facts in this matter, the Board finds and concludes as a matter of law that:

1. The Board has jurisdiction in this matter and, pursuant to the provisions of S.C. Code Ann. §40-1-120 and Regulation 81-100L, has the authority to order the revocation or suspension of a certificate, publicly or privately reprimand the holder of a certificate, restrict or deny a certificate, impose a fine not to exceed five hundred dollars; place a licensee on probation or restrict or suspend the individual's license for a definite or indefinite time and prescribe conditions to be met during probation, restriction, or suspension including, but not limited to, satisfactory completion of additional education, of a supervisory period, or of continuing education programs; and impose the reasonable costs of the investigation and prosecution of a case.

2. The Respondent has violated Regulations No. 81-100L (2), (5), (7), (8), (10), and (11)(Supp. 1998) of the Rules and Regulations of the Board, in the following particulars:

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A. In violation of 26 S.C. Code Ann. Reg. 81-100L.(5) (Supp. 1998), Respondent has been convicted of a crime that is felony, a crime of moral turpitude, and a crime involving drugs. Said violation is demonstrated by Respondent's felony convictions in the State of Florida.

B. In violation of 26 S.C. Code Ann. Reg. 81-100L.(8) (Supp. 1998), Respondent is guilty of using a false or fraudulent statement in a document connected with the practice of a physician assistant. Said violation is evidenced by Respondent's presentation of false prescriptions and other acts of deception in obtaining controlled substances, including, but not limited to, forgery or misappropriation of the signature of Respondent's supervising physician and fraudulently posing as Respondent's supervising physician.

C. In violation of 26 S.C. Code Ann. Reg. 81-100L.(2) (Supp. 1998), Respondent is guilty of using a false or fraudulent statement in a document Respondent filed with the Board or which was filed on his behalf. Said violation is evidenced by Respondent's false representations on his Application for Certification to Practice as a Physician Assistant in South Carolina, including (1) that he had never been arrested, charged, or indicted for violation of law, (2) that he last worked as a physician assistant in July of 1997, (3) Respondent's failure to reveal his employment as a physician assistant in the state of Florida, and (4) Respondent's failure to reveal his prior certification by the State of Florida.

D. In violation of 26 S.C. Code Ann. Reg. 81-100L.(11) (Supp. 1998), Respondent lacks the ethical competency to act as a physician assistant in that Respondent's conduct in this matter demonstrates a willful disregard for law with regard to forgery, fraud, the regulation of controlled substances, and the regulation of the profession of physician assistant. Said violation is evidenced by Respondent's presentation of false prescriptions and other acts of deception in obtaining controlled substances, including, but not limited to, forgery or misappropriation of the signature of Respondent's supervising physician and fraudulently posing as Respondent's supervising physician. Said violation is further evidenced by Respondent's false and fraudulent representations to the Board regarding his employment as a physician assistant in Florida, regarding his certification as a physician assistant in Florida, and regarding his arrest for violations of Florida criminal law.

E. In violation of 26 S.C. Code Ann. Reg. 81-100L.(7) (Supp. 1998), Respondent is guilty of dishonorable or unethical conduct likely to deceive or harm patients in that Respondent's conduct in this matter demonstrates a willful disregard for law with regard to forgery, fraud, the regulation of controlled substances, and the regulation of the profession of physician assistant. Said violation is evidenced by Respondent's presentation of false prescriptions and other acts of deception in obtaining controlled substances, including, but not limited to, forgery or misappropriation of the signature of Respondent's supervising physician and fraudulently posing as Respondent's supervising physician. Said violation is further evidenced by Respondent's false and fraudulent representations to the Board regarding his employment as a physician assistant in Florida, regarding

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his certification as a physician assistant in Florida, and regarding his arrest for violations of Florida criminal law.

F. In violation of 26 S.C. Code Ann. Reg. 81-100L.(10) (Supp. 1998), Respondent has violated provisions or terms of the Board's regulations, as demonstrated in the above allegations.

3. The sanction imposed is consistent with the purpose of these proceedings and has been made after weighing the public interest and the need for the continuing services of qualified physician assistants against the countervailing concern that society be protected from professional ineptitude and misconduct.

4. The sanction imposed is designed not to punish the Respondent, but to protect the life, health, and welfare of the people at large.

**NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED** that:

1. The Respondent's certificate to practice as a physician assistant in this State is hereby indefinitely suspended. The Respondent may petition the Board for reinstatement of his certificate in South Carolina upon demonstrating that he has obtained an unencumbered certificate in Florida and in all other states in which the Respondent may be licensed at that time. At the time of the Respondent's petition for reinstatement, the Board, in its discretion, may accept or reject the Respondent's petition or may impose such terms, conditions, or restrictions as the Board at that time may deem appropriate.

2. This final order shall take effect immediately upon service of this order on the Respondent or his counsel.

**AND IT IS SO ORDERED.**

**STATE BOARD OF MEDICAL EXAMINERS**

BY: Hartwell Z. Hildebrand M.D.
Hartwell Z. Hildebrand, M.D.
President of the Board

7-26, 1999.

CERTIFIED TRUE COPY
9th DAY OF November 1999
Carolyn J. Coats
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires 2/5/07