

State Medical Board of Ohio

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October 10, 2012

Christopher M. Heben, P.A.
348 Meadow Oaks Trail
Medina, OH 44256

RE: Case No. 12-CRF-036

Dear Mr. Heben:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 10, 2012, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio, and adopting an Amended Order.

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

Such an appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board and the Franklin County Court of Common Pleas. The Notice of Appeal must set forth the Order appealed from and state that the State Medical Board's Order is not supported by reliable, probative, and substantive evidence and is not in accordance with law. The Notice of Appeal may, but is not required to, set forth the specific grounds of the appeal. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO



J. Craig Strafford, M.D., M.P.H.
Secretary

JCS:jam
Enclosures

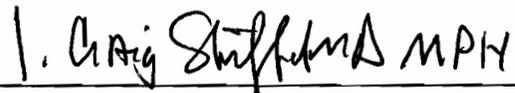
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RETURN RECEIPT REQUESTED

Mailed 10-25-12

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 Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 10, 2012, 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, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Christopher M. Heben, P.A., Case No. 12-CRF-042, 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.



J. Craig Strafford, M.D., M.P.H.
Secretary

(SEAL)

October 10, 2012
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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CASE NO. 12-CRF-036

CHRISTOPHER M. HEBEN, P.A.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on October 10, 2012.

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

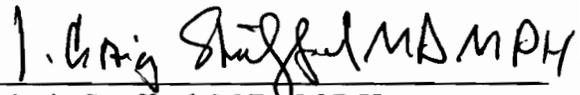
Rationale for Amendment: There is no evidence that Mr. Heben abuses drugs or alcohol or requires continued monitoring for substance abuse.

It is hereby ORDERED that:

- A. **SUPERSEDE PREVIOUS CONSENT AGREEMENT:** Upon becoming effective, this Order shall supersede the terms and conditions set forth in the April 8, 2009 Step I Consent Agreement between Christopher M. Heben, P.A., and the Board in case number 08-CRF-121.
- B. **REPRIMAND:** Mr. Heben is hereby REPRIMANDED.
- C. **SUSPENSION OF CERTIFICATE:** The certificate of Mr. Heben to practice as a physician assistant in the State of Ohio shall remain SUSPENDED for an indefinite period of time.
- D. **CONDITIONS FOR RESTORATION:** The Board shall not consider restoration of Mr. Heben's certificate to practice as a physician assistant until all of the following conditions have been met:
 - 1. **Application for Restoration:** Mr. Heben shall submit an application for restoration, accompanied by appropriate fees, if any.

2. **Evidence of Current Clinical Competency**: Prior to submitting his application for restoration, Mr. Heben shall take and pass the PANRE (Physician Assistant National Recertification Examination), or the Pathway II examination, or any similar written examination that the Board may deem appropriate to assess Mr. Heben's clinical competency.
 3. **Personal Appearance**: Mr. Heben shall appear in person for an interview before the full Board or its designee upon his request for restoration of his certificate to practice as a physician assistant.
- E. **VIOLATION OF THE TERMS OF THIS ORDER**: If Mr. Heben violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon the mailing of the notification of approval by the Board.



J. Craig Strafford, M.D., M.P.H.
Secretary

(SEAL)

October 10, 2012

Date

2012 SEP 12 AM 11:05

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of

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Case No. 12-CRF-036

Christopher M. Heben, P.A.,

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Hearing Examiner Porter

Respondent.

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REPORT AND RECOMMENDATION

Basis for Hearing

In a notice of opportunity for hearing dated April 11, 2012 ("Notice"), the State Medical Board of Ohio ("Board") notified Christopher M. Heben, P.A., that it had proposed to take disciplinary action against his certificate to practice as a physician assistant in Ohio based on his alleged violation of an April 8, 2009 Consent Agreement. The Board further alleged that Mr. Heben's conduct constitutes a "[v]iolation of the conditions placed by the board on a certificate to practice as a physician assistant, a certificate to prescribe, a physician supervisory plan, or supervision agreement," as that clause is used in Section 4730.25(B)(20), Ohio Revised Code. Accordingly, the Board advised Mr. Heben of his right to request a hearing, and received his written request on April 25, 2012. (State's Exhibits ("St. Exs.") 1A, 1B)

Appearances

Michael DeWine, Attorney General, and Heidi W. Dorn, Assistant Attorney General, on behalf of the State of Ohio. Mr. Heben appeared on his own behalf.

Hearing Date: July 13, 2012

PROCEDURAL MATTERS

1. At the request of the Respondent, the hearing record was held open to allow time for him to submit an additional exhibit. The exhibit was received and admitted to the hearing record without objection. The hearing record closed on July 30, 2012.
2. The Hearing Examiner paginated Respondent's Exhibit B post-hearing.

SUMMARY OF THE EVIDENCE

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

Background

1. Christopher M. Heben, P.A., was originally licensed to practice as a physician assistant in Ohio in March 2006 and was given certificate number 50.002432. His license became inactive due to non-renewal on January 31, 2008. (St. Ex. 2 at 4; Ohio eLicense Center, <https://license.ohio.gov/Lookup/>, accessed August 29, 2012)
2. Mr. Heben testified that he has not practiced as a physician assistant since 2007 when he voluntarily relinquished his privileges at Alliance Community Hospital, Alliance Surgical Center, and Canton Mercy Hospital. (Tr. at 17)
3. Mr. Heben testified that his certificate to practice as a physician assistant in Ohio is currently suspended; however, he is up-to-date on all of his education requirements. (Tr. at 17)
4. Mr. Heben, a former U.S. Navy SEAL, testified that he is currently self-employed and the owner of a company called Medical Security International (“MSI”), which has been in existence for three years. Mr. Heben testified that he is the Chief Operations Officer and Chief Tactical Adviser. Mr. Heben described what MSI does:

MSI exists to provide extremely high-level medical care and security care, for lack of a better word, at the same time. We combine former special-forces operative—operatives that have combat experience who are at the very least combat medics. Currently they’re either P.A.s, M.D.s, or nurse practitioners. So we accompany extremely high-net-worth individuals to austere environments as we’re conducting business for their corporations. And we give them medical comfort if they have comorbidities; IV, diabetes, hypertension, and a cardiac issue. We tailor—tailor make a medical kit specifically for that person.

And also we have the same guys [who] are also in charge of logistics, getting them from Point A to Point B, and providing for their security. So they can shoot, commute—shoot, move, communicate, and work a diagnosis.

(Tr. at 15-16)

5. Mr. Heben further testified that MSI works “throughout the United States and abroad.” (Tr. at 16)

Mr. Heben stated that his role in the company is primarily business-oriented:

I will, obviously, make medical recommendations, decisions with respect to equipment and personnel, because I am, in fact, a master-degree physician assistant and that will always remain a fact. So I do use my medical knowledge to make informed decisions with respect to the direction of the business.

(Tr. at 16) However, Mr. Heben testified that he is not currently practicing as a physician assistant. (Tr. at 16-17)

Mr. Heben's Disciplinary History with the Board

6. On October 8, 2008, the Board issued a notice of opportunity for hearing ("October 2008 Notice") to Mr. Heben alleging that in July 2008, in the Lake County, Ohio, Common Pleas Court, Mr. Heben pleaded "no contest" to and was found guilty of three counts of Forgery in violation of Section 2913.31(A)(3), Ohio Revised Code, felonies of the fifth degree. The Board further alleged that the conduct implicated by the judicial finding of guilt involved Mr. Heben's "illicit forging of prescriptions for controlled substances, and * * * using [his] position as a physician assistant to facilitate the commission of these offenses." Finally, the Board alleged that the judicial finding of guilt constitutes "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as that clause is used in Section 4730.25(B)(11), Ohio Revised Code. (St. Ex. 2 at 2)
7. Mr. Heben testified that, in 2007, he had taken himself out of practice because of the felony charges he was facing at the time:

I didn't want to put my supervising physician in jeopardy. I was completely forthright with the narcotics detectives and told them the nuances of—of what I did and why. And, you know, that was unacceptable behavior for myself even at that time. So I said, you know, I need to take a step back and put myself on a shelf and figure out why this happened.

(Tr. at 36)

8. Effective April 8, 2009, Mr. Heben entered into a Step I Consent Agreement with the Board in lieu of further proceedings based upon the October 2008 Notice. In the consent agreement, Mr. Heben admitted to the factual and legal allegations described in that notice. (St. Ex. 2 at 4)

Under the terms and conditions of the consent agreement, Mr. Heben's certificate was permanently revoked, and the permanent revocation was stayed subject to suspension for at least two years. The terms and conditions also impose interim requirements during the suspension period and requirements for restoration. The consent agreement further

provides that, upon restoration, the parties would agree upon subsequent probationary terms and conditions and enter into a second consent agreement, or submit to a hearing in the event that such an agreement cannot be reached. (St. Ex. 2 at 5-13; Tr. at 18-20)

9. As of the date of the hearing, Mr. Heben's certificate remains suspended pursuant to the consent agreement, which is still in effect. (Tr. at 17; Ohio eLicense Center, <https://license.ohio.gov/Lookup/>, accessed September 11, 2012)
10. The interim requirements set forth in the consent agreement includes that Mr. Heben would submit to a 72-hour evaluation chemical dependency evaluation, would abstain from the personal use or possession of drugs except for those prescribed to him, and would submit to random urine screens for drugs and alcohol at least four times per month. (St. Ex. 2 at 5-9)

Specifically, paragraph 5 of the consent agreement provides:

Mr. Heben shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Mr. Heben 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, and shall include Mr. Heben's drug(s) of choice.

(St. Ex. 2 at 6)

11. Further, paragraph 7 provides, among other things, that "[a]ll such urine screenings for drugs and alcohol shall be conducted through a Board-approved drug testing facility and collection site, * * * and the screening process shall require a daily call-in procedure." (St. Ex. 2 at 6)

In addition, subparagraph 7.a provides:

Mr. Heben shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by Mr. Heben shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Consent Agreement. Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Consent Agreement.

(St. Ex. 2 at 6)

Finally, subparagraph 7.c provides:

Mr. Heben shall ensure that the urine screening process performed through the Board-approved drug testing facility and/or collection site requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and that

the giving of the specimen is witnessed by a reliable person. In addition, Mr. Heben and the Board-approved drug testing facility and collection site shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

(St. Ex. 2 at 7)

12. The conditions for restoration include taking and passing the Physician Assistant National Recertification Examination (“PANRE”), or a similar examination approved by the Board, prior to submitting his application for restoration. (St. Ex. 2 at 11)

Mr. Heben testified that the PANRE is an examination that practicing physician assistants have to take every five or six years to maintain their certification. As of the date of the hearing, Mr. Heben had not yet passed that examination. (Tr. at 34-35)

Results of Mr. Heben’s 72-Hour Evaluation

13. From September 8 through 11, 2009, Mr. Heben underwent a 72-hour evaluation for chemical dependency at Glenbeigh, a Board-approved treatment provider in Rock Creek, Ohio. Following that evaluation, Mr. Heben was found not to be impaired and chemical dependency was ruled out. In a September 22, 2009 letter to the Board, Christopher Adelman, M.D., described the evaluation process and concluded, among other things, that Mr. Heben is not impaired and “is capable of practicing as a physician’s assistant at acceptable and prevailing standards of care and no treatment is recommended at this time.” (Resp. Ex. A; Resp. Ex. B at 2; Tr. at 20-21)

Mr. Heben’s Compliance with the Consent Agreement

14. With respect to paragraph 2 of the Notice, FirstLab records indicate that, during the following months, Mr. Heben submitted fewer than four urine samples as required by his consent agreement:
 - September 2009
 - November 2009
 - June 2010
 - August 2010
 - October 2010
 - November 2010
 - May 2011
 - June 2011
 - January 2012
 - February 2012

(St. Exs. 3, 4, 5)

15. Mr. Heben testified that he does not believe that he missed *all* of the required urine screens during the months listed above, but agreed that he had submitted fewer than four urine samples during those months. (Tr. at 25-26)
16. In addition, with respect to the allegations set forth in paragraph 3 of the Notice, records from FirstLab indicate as follows:
 - (a) Mr. Heben failed to call in to FirstLab on September 7 – 10, 2009; September 12 – 13, 2009; October 20 – 24, 2009; November 14, 2009; November 25, 2009; December 14 – 15, 2009; January 9, 2010; January 23, 2010; February 8, 2010; March 7, 2010; March 14, 2010; June 20, 2010; June 29, 2010; July 2, 2010; September 19, 2010; October 30, 2010; January 8, 2011; January 15, 2011; May 30, 2011; June 30, 2011; July 3, 2011; July 30, 2011; August 23, 2011; August 26, 2011; September 11, 2011; October 5, 2011; October 26, 2011; November 11 – 12, 2011; November 26, 2011; December 3, 2011; January 20, 2012; January 26, 2012; January 30, 2012; February 5, 2012; and February 25, 2012.
 - (b) Mr. Heben called in late to FirstLab on September 5, 2009; October 13, 2009; December 25, 2009; April 3, 2010; September 12, 2010; November 3, 2010; December 14, 2010; January 22, 2011; January 24, 2011; January 30, 2011; February 3, 2011; February 17, 2011; March 1, 2011; March 18, 2011; May 6, 2011; May 8, 2011; May 16, 2011; May 27, 2011; June 5, 2011; June 9, 2011; July 28, 2011; August 6 – 7, 2011; August 11 – 12, 2011; September 3, 2011; September 9, 2011; October 8, 2011; October 19, 2011; October 23, 2011; November 3, 2011; November 9, 2011; November 20, 2011; December 23, 2011; January 24, 2012; February 8, 2012; and February 11 – 12, 2012.
 - (c) Mr. Heben called in late and/or failed to call in at all on dates scheduled for him to provide a urine specimen, resulting in no specimen being collected on September 11, 2009; November 5, 2009; December 1, 2009; August 26, 2010; July 11, 2011; November 15, 2011; December 5, 2011; December 16, 2011; and December 27, 2011.
 - (d) Mr. Heben called in and was notified that he was required to submit a urine specimen yet he failed to submit a urine specimen as required on February 5, 2010; June 21, 2010; November 19, 2010; May 13, 2011; June 23, 2011; August 19, 2011; January 17, 2012; January 19, 2012; February 10, 2012; and February 28, 2012.

(St. Exs. 3, 4, 5)

17. Mr. Heben acknowledged that he had missed tests, missed calls, and been late with calls. He further testified that he does not disagree with the allegations set forth in paragraphs 2 and 3 of the Notice. (Tr. at 26-28; St. Ex. 1A)
18. Mr. Heben testified that he had missed call-ins to FirstLab because, on some occasions, he had been “out of cell phone range due to the austere environment [he] was working in,” and

on other occasions he “was just getting jammed up with work things” and missing the call-in period. Mr. Heben further testified that the environments where he works can include the southwestern United States, Mexico, Africa, and the Middle East. He added that his schedule is very unpredictable; some months he will be out for fifteen days, other months he will be out for only two days. (Tr. at 29-30)

19. Mr. Heben testified that he had contacted the compliance department when he knew that he would be unavailable due to work-related travel. A document maintained by the Board reflects 21 excused absences from December 2009 through January 2012. Mr. Heben further testified that he worked with the compliance department and tried as much as possible to submit requests for excused absences well in advance of the trips. (Tr. at 30-32; St. Ex. 6)

Testimony of Danielle Bickers

20. Danielle Bickers testified that she is the Compliance Supervisor for the Board. Ms. Bickers testified that the compliance unit monitors Board licensees who are subject to the terms and conditions of Board orders and consent agreements. In that capacity, Ms. Bickers testified, she has worked with Mr. Heben concerning his consent agreement. (Tr. at 41-42)
21. Ms. Bickers testified that Mr. Heben is required to call in to FirstLab daily between the hours of 5:00 a.m. and 2:00 p.m. If Mr. Heben called in later than 2:00 p.m., FirstLab would not inform him whether he had been selected to drop off a urine sample that day. Ms. Bickers further testified that the call-in process is computerized, so it is very unforgiving. If Mr. Heben had called in at 2:01 p.m., that would have been too late. (Tr. at 49-50) Ms. Bickers also testified:

When Mr. Heben first started the process, we would tell the individuals if you miss the cutoff time, to go ahead and submit to a volunteer specimen that day to show good-faith effort. We’re now telling our licensees we now have the mechanism where we can actually—“we,” the compliance section—has the ability to tell whether or not that individual is selected to test.

* * *

And—And so we’re telling them to call us, the compliance section, and we tell them whether or not they were selected to test. And that avoids a—an unnecessary cost.

(Tr. at 49) Ms. Bickers added that the compliance section’s new procedure is very recent, and was put in place only about three or four months prior to the hearing. (Tr. at 49)

22. Ms. Bickers testified that Mr. Heben had called and alerted her concerning his travel plans when he would be unable to submit urine samples. Ms. Bickers further testified: “[I]f we excused a time period based on his request, then he was not out of compliance for that time period. So those are not referenced in the [Notice].” Moreover, Ms. Bickers testified that

Mr. Heben had not been required by his consent agreement to report to the Board when he would be leaving the state. Ms. Bickers added that, given the low risk of harm to the public due to Mr. Heben's suspension, as well as his employment situation, his requests for travel waivers had been routinely granted. (Tr. at 51-52, 61)

23. Ms. Bickers testified that, when Mr. Heben missed tests or called in late for tests, she would discuss each of them with Mr. Heben to make sure that his declarations of compliance included all of those missed or late-call dates. Ms. Bickers further testified:

Mr. Heben and I have had extensive conversations about how, if he wanted to get his P.A. certificate back—certification back—license back, excuse me, that he needed to comply with the terms of the Consent Agreement and the daily call-in process. And I told him on, I think, a number of occasions that at some point he would get an opportunity to negotiate another Consent Agreement, and maybe at that point there could be some discussion on the necessity for urine screens and calling in given the evaluation that indicated he was not impaired.

(Tr. at 53)

24. Ms. Bickers testified that, other than Mr. Heben failing to comply with the urine screen process, he has been compliant with his consent agreement. She further testified that she has discussed with Mr. Heben on a number of occasions his frustration with the requirement that he submit to urine screens even though Glenbeigh had determined that he was not impaired. Ms. Bickers added that this situation had been very unusual, and that she cannot recall another similar case where a licensee who was determined not to be impaired had been required to submit to urine screens. However, she testified that Mr. Heben had agreed to those terms in his consent agreement and that, if he complied with the consent agreement, that requirement might have been negotiable when he and the Board entered into a Step II Consent Agreement. (Tr. at 55-59)
25. Ms. Bickers testified that, in her dealings with Mr. Heben, she has never had any reason to believe that Mr. Heben has a problem with drugs or alcohol. She further testified that she does not believe that the public would be in any danger if the urine screen requirement was not included in a future order. (Tr. at 66)
26. Ms. Bickers testified that she “[a]bsolutely” believes that Mr. Heben has been honest and forthright with her during the time that she has monitored him. (Tr. at 51)

Testimony of Mr. Heben

27. Mr. Heben believes that the consent agreement he had entered into with the Board was not properly presented to him by the attorney who represented him at that time. Mr. Heben testified that, consequently, “the whole system that I have been subjected to had been flawed from the get-go[.]” Moreover, Mr. Heben believes that he had made a mistake

when, prior to any evaluation for chemical dependency, he signed an agreement requiring him to submit to daily call-ins and four random urine screens per month. He testified that “there was no mechanism in place in the Consent Agreement to allow for a Plan B if [he] was found not to be impaired.” Mr. Heben further testified that, after subsequently completing the evaluation, he was found not to be impaired by drugs or alcohol. Furthermore, he testified that, despite being found not to be impaired, he had submitted to a total of 126 urine screens which altogether have cost him \$6,930.00. Finally, Mr. Heben testified that, around March 28, 2012, “I willfully and purposefully did not continue calling or submitting myself to these tests because I feel that it is unnecessary,” noting that to continue to do so would violate his right to privacy and equate to admitting that he has a problem that needs monitoring. (Tr. at 37, 74-78, 94; Resp. Exs. A, B, C)

28. Mr. Heben testified that he had been convicted of Forgery and not a criminal drug offense, and that he had not been eligible for treatment in lieu of conviction because he had not been found to be impaired. (Tr. at 82)

Mr. Heben further testified that, as noted on his discharge summary from Glenbeigh, he has an Axis I diagnosis of post-traumatic stress disorder (“PTSD”). Mr. Heben testified that, as a Navy SEAL, he first went into combat in 1998 and last did so in 2006. Mr. Heben further testified that such experiences can have an effect on people. Moreover, Mr. Heben testified that that effect played “a pretty big role in why I wasn’t thinking clearly at that time.” Finally, Mr. Heben testified that he believes that he had written the prescriptions as a result of PTSD and not because of any drug dependency issue. (Tr. at 88)

29. The Glenbeigh discharge summary includes Axis III diagnoses of “Status post multiple shrapnel wounds” and “Status post abdominal wall repair.” (Resp. Ex. C at 2)

30. Mr. Heben testified that his P.A. certificate is very important to him:

I have a Master’s degree, I’d like to be able to use it, whether it’s under the auspices of my business strictly as the executive vice president and chief operating officer, or if it’s actually laying hands on patients, I would like to do that, be able to do that in good faith.

(Tr. at 95-96)

Additional Information

31. Mr. Heben submitted several letters of support. Some of these letters praise the work of MSI, Mr. Heben’s company, and the training MSI provides to law enforcement agencies and private security personnel concerning medical support in hostile environments and in remote environments where back-up may not be readily available. (Resp. Exs. D, E, F) For example, Patrick Fiorilli, President of the Ohio Tactical Officers Association (“OTOA”), wrote that MSI provides training and equipment that give law enforcement professionals “the tools necessary to survive a deadly force encounter. Officer survival

depends on the survival mindset, proper tactics and the best care under fire.”¹ Mr. Fiorilli further wrote:

When officers respond to a critical incident, it is proven that they will default to a rudimentary level of training. Keeping this in mind, if their lowest level of training is the course offered by MSI, then they are going to be functioning at a high level despite the stresses being placed upon them. Relying on the mastery of MSI’s new and cutting edge “basics” is what will save lives and mitigate risks.

(Resp. Ex. F)

32. In another letter of support, Christopher Manacci, MSN, ACNP-C, indicated that he has worked with Mr. Heben during the past four years in Mr. Manacci’s capacity as program director of the critical care transport program at the Cleveland Clinic and as director of the Dorothy Ebersbach Academic Center for Flight Nursing at Case Western Reserve University. Mr. Manacci wrote that Mr. Heben possesses “integrity and character that is uncommon to most people * * *.” Moreover, Mr. Manacci stated: “I have been in clinical practice for nearly three decades and I can assure you that there is no finer representative of the health professions than Mr. Heben.” (Resp. Ex. J)
33. Mr. Heben’s business partner, Matthew Evenhouse, M.D., President and Chief Medical Officer for MSI, wrote a letter of support for Mr. Heben. That letter stated, in part:

I have known [Mr. Heben] since 2007. Since then we have partnered to start a business called Medical Security International. I have spent nearly every day in contact or in the presence of Mr. Heben. I know Mr. Heben to be an honorable man, a capable business partner, a knowledgeable expert in several medical and security disciplines, and a caring father and friend.

I know Mr. Heben to stay true to his word and live his life with integrity. I have never seen Mr. Heben abuse any substance or drinks or ever put anything into his body that would cause harm. * * *

* * *

In summary, Mr. Heben has contributed to the security of our nation in his past work as a SEAL. He continues to protect and enhance the lives of others through business, medical and media activities. He represents the great contributions that returning veterans make to civilian life. His experience with reintegration has not been smooth and unfortunately it is representative of a good many returning veterans. We as civilian society have a duty to

¹ Mr. Heben testified that the OTOA is the “governing body that lays out the procedures and protocols for every one of Ohio’s SWAT teams of any police department. My company has trained the OTOA for two years now, very, very successfully.” (Tr. at 81)

welcome our returning veterans home and support them in reintegrating by understanding their particular needs. I strongly encourage the Medical Board to look closely at the unique needs of returning veterans with medical licenses and develop solutions to assist with challenges faced in the reintegration of this special population. By understanding the unique challenges faced by returning veterans and how to support them in times of difficulty, we will greatly improve chances for their recovery and successful return to practice.

(Resp. Ex. I)

FINDINGS OF FACT

1. Effective April 8, 2009, Christopher M. Heben, P.A., entered into a Step I Consent Agreement with the Board in lieu of formal proceedings based upon his violation of Section 4730.25(B)(11), Ohio Revised Code. This was based upon Mr. Heben's plea of "no contest" to and judicial finding of guilt by the Lake County, Ohio, Common Pleas Court of three counts of Forgery, in violation of Section 2913.31(A)(3), Ohio Revised Code, felonies of the fifth degree. The conduct implicated in the finding of guilt involved Mr. Heben's illicit forging of prescriptions for controlled substances and using his position as a physician assistant to facilitate the commission of these offenses.

Under the terms of the consent agreement, Mr. Heben's certificate to practice as a physician assistant was permanently revoked; the permanent revocation was stayed, and his certificate was suspended for an indefinite period of time, but not less than two years, subject to various agreed conditions. At the time of the hearing, Mr. Heben's certificate remained suspended pursuant to the terms of the consent agreement, which is still in effect.

2. Paragraph 5 of the consent agreement provided:

Mr. Heben shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Mr. Heben 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, and shall include Mr. Heben's drug(s) of choice.

Despite the requirements of paragraph 5 of the consent agreement, Mr. Heben submitted fewer than four urine samples during the following months:

- September 2009
- November 2009
- June 2010
- August 2010
- October 2010
- November 2010

- May 2011
 - June 2011
 - January 2012
 - February 2012
3. Paragraph 7 of the consent agreement provides, among other things, that “[a]ll such urine screenings for drugs and alcohol shall be conducted through a Board-approved drug testing facility and collection site, * * * and the screening process shall require a daily call-in procedure.” Further, subparagraph 7.a provides:

Mr. Heben shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by Mr. Heben shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Consent Agreement. Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Consent Agreement.

Moreover, subparagraph 7.c provides:

Mr. Heben shall ensure that the urine screening process performed through the Board-approved drug testing facility and/or collection site requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and that the giving of the specimen is witnessed by a reliable person. In addition, Mr. Heben and the Board-approved drug testing facility and collection site shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Despite the requirements of the paragraph 7 and subparagraphs 7.a and 7.c of the consent agreement, the evidence establishes that:

- (a) Mr. Heben failed to call in to FirstLab on September 7 – 10, 2009; September 12 – 13, 2009; October 20 – 24, 2009; November 14, 2009; November 25, 2009; December 14 – 15, 2009; January 9, 2010; January 23, 2010; February 8, 2010; March 7, 2010; March 14, 2010; June 20, 2010; June 29, 2010; July 2, 2010; September 19, 2010; October 30, 2010; January 8, 2011; January 15, 2011; May 30, 2011; June 30, 2011; July 3, 2011; July 30, 2011; August 23, 2011; August 26, 2011; September 11, 2011; October 5, 2011; October 26, 2011; November 11 – 12, 2011; November 26, 2011; December 3, 2011; January 20, 2012; January 26, 2012; January 30, 2012; February 5, 2012; and February 25, 2012.
- (b) Mr. Heben called in late to FirstLab on September 5, 2009; October 13, 2009; December 25, 2009; April 3, 2010; September 12, 2010; November 3, 2010; December 14, 2010; January 22, 2011; January 24, 2011; January 30, 2011; February 3, 2011; February 17, 2011; March 1, 2011; March 18, 2011; May 6, 2011; May 8,

2011; May 16, 2011; May 27, 2011; June 5, 2011; June 9, 2011; July 28, 2011; August 6 – 7, 2011; August 11 – 12, 2011; September 3, 2011; September 9, 2011; October 8, 2011; October 19, 2011; October 23, 2011; November 3, 2011; November 9, 2011; November 20, 2011; December 23, 2011; January 24, 2012; February 8, 2012; and February 11 – 12, 2012.

- (c) Mr. Heben called in late and/or failed to call in at all on dates scheduled for him to provide a urine specimen, resulting in no specimen being collected on September 11, 2009; November 5, 2009; December 1, 2009; August 26, 2010; July 11, 2011; November 15, 2011; December 5, 2011; December 16, 2011; and December 27, 2011.
- (d) Mr. Heben called in and was notified that he was required to submit a urine specimen yet he failed to submit a urine specimen as required on February 5, 2010; June 21, 2010; November 19, 2010; May 13, 2011; June 23, 2011; August 19, 2011; January 17, 2012; January 19, 2012; February 10, 2012; and February 28, 2012.

CONCLUSIONS OF LAW

The acts, conduct, and/or omissions of Christopher M. Heben, P.A., as described in the Findings of Fact, individually and/or collectively, constitute a “[v]iolation of the conditions placed by the board on a certificate to practice as a physician assistant, a certificate to prescribe, a physician supervisory plan, or supervision agreement,” as that clause is used in Section 4730.25(B)(20), Ohio Revised Code.

RATIONALE FOR THE PROPOSED ORDER

In his 2009 consent agreement, Mr. Heben agreed to submit to a daily call-in procedure and provide four urine samples per month. The evidence establishes that Mr. Heben failed to comply. He deserves to be sanctioned for this violation. However, the evidence also establishes that Mr. Heben’s case is not only highly unusual but is, in fact, unique.

Mr. Heben and the Board entered into the 2009 consent agreement prior to Mr. Heben being evaluated for chemical dependency. After Mr. Heben and the Board had entered into the consent agreement, a Board-approved treatment provider determined that Mr. Heben was not impaired due to chemical abuse or dependency. Nevertheless, despite the determination that Mr. Heben was not impaired, he was still required by the agreement to submit to the urine screen process as though he were impaired. The evidence indicates that there has been no such similar case, at least not within approximately the last fifteen years. Further, the evidence indicates that, aside from the urine screen requirement, Mr. Heben has been compliant with his consent agreement and cooperative with the Board’s compliance staff. Moreover, there is no evidence that Mr. Heben abuses drugs or alcohol or requires continued monitoring for substances of abuse.

Accordingly, the Hearing Examiner recommends a lenient penalty for Mr. Heben's violation of his consent agreement. The Proposed Order would reprimand Mr. Heben for his violation and continue the non-impairment-related requirements of the consent agreement. This includes continuing the period of suspension until such time as Mr. Heben passes the recertification examination as required by the consent agreement. Following restoration of his certificate, Mr. Heben would be subject to a brief period of probation.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **SUPERSEDE PREVIOUS CONSENT AGREEMENT:** Upon becoming effective, this Order shall supersede the terms and conditions set forth in the April 8, 2009 Step I Consent Agreement between Christopher M. Heben, P.A., and the Board in case number 08-CRF-121.
- B. **REPRIMAND:** Mr. Heben is hereby REPRIMANDED.
- C. **SUSPENSION OF CERTIFICATE:** The certificate of Mr. Heben to practice as a physician assistant in the State of Ohio shall remain SUSPENDED for an indefinite period of time.
- D. **CONDITIONS FOR RESTORATION:** The Board shall not consider restoration of Mr. Heben's certificate to practice as a physician assistant until all of the following conditions have been met:
 1. **Application for Restoration:** Mr. Heben shall submit an application for restoration, accompanied by appropriate fees, if any.
 2. **Evidence of Current Clinical Competency:** Prior to submitting his application for restoration, Mr. Heben shall take and pass the PANRE (Physician Assistant National Recertification Examination), or the Pathway II examination, or any similar written examination that the Board may deem appropriate to assess Mr. Heben's clinical competency.
- E. **PROBATION:** Upon reinstatement or restoration, Mr. Heben's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least one year:
 1. **Obey the Law:** Mr. Heben shall obey all federal, state, and local laws, and all rules governing the practice of physician assisting in Ohio.
 2. **Declarations of Compliance:** Mr. Heben shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly

declaration must be received in the Board's offices on or before the first day of the third month following the month in which Mr. Heben's certificate is restored. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Personal Appearances**: Mr. Heben shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Mr. Heben's certificate is restored, or as otherwise directed by the Board. Subsequent personal appearances shall occur every six months thereafter, and/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.
 4. **Required Reporting of Change of Address**: Mr. Heben shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.
- F. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Heben's certificate will be fully restored.
- G. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER**:
1. **Required Reporting to Employers and Others**: Within 30 days of the effective date of this Order, Mr. Heben shall provide a copy of this Order to all employers or entities with which he is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training, and the Chief of Staff at each hospital or healthcare center where he has privileges or appointments. Further, Mr. Heben shall promptly provide a copy of this Order to all employers or entities with which he contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where he applies for or obtains privileges or appointments.

In the event that Mr. Heben provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

These requirements shall continue until Mr. Heben receives from the Board written notification of the successful completion of his probation.

2. **Required Reporting to Other Licensing Authorities**: Within 30 days of the effective date of this Order, Mr. Heben shall provide a copy of this Order to the

proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Administration, through which he currently holds any professional license or certificate. Also, Mr. Heben shall provide a copy of this Order at the time of application to the proper licensing authority of any state or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Mr. Heben receives from the Board written notification of the successful completion of his probation.

3. **Required Documentation of the Reporting Required by Paragraph G:**

Mr. Heben shall provide this Board with **one** of the following documents as proof of each required notification within 30 days of the date of each such notification: (a) the return receipt of certified mail within 30 days of receiving that return receipt, (b) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (c) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (d) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

H. **VIOLATION OF THE TERMS OF THIS ORDER:** If Mr. Heben violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon the mailing of the notification of approval by the Board.

A handwritten signature in black ink, appearing to read 'R. Gregory Porter', written over a horizontal line.

R. Gregory Porter
Hearing Examiner



State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
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EXCERPT FROM THE DRAFT MINUTES OF OCTOBER 10, 2012

REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Mahajan announced that the Board would now consider the Reports and Recommendations, and the Proposed Findings and Proposed Order appearing on its agenda.

Dr. Mahajan asked whether each member of the Board had received, read and considered the hearing records; the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: Jehangir Badar, M.D.; John David Brownlee, M.D.; Joseph Claude Carver, M.D.; Christopher M. Heben, P.A.; Glenn A. Kunkel, M.D.; and Stephen August Schemenauer, P.A.

A roll call was taken:

ROLL CALL:	Dr. Strafford	- aye
	Dr. Bechtel	- aye
	Dr. Suppan	- aye
	Dr. Steinbergh	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Ms. Elsass	- aye
	Mr. Kenney	- aye
	Dr. Ramprasad	- aye

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

ROLL CALL:	Dr. Strafford	- aye
	Dr. Bechtel	- aye
	Dr. Suppan	- aye
	Dr. Steinbergh	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Ms. Elsass	- aye
	Mr. Kenney	- aye
	Dr. Ramprasad	- aye

Dr. Mahajan noted that, in accordance with the provision in section 4731.22(F)(2), Ohio 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 any disciplinary matters. In the matter before the Board today, Dr.

Strafford served as Secretary, Dr. Bechtel served as Supervising Member, and Dr. Talmage served as Secretary and/or Acting Supervising Member.

Dr. Mahajan reminded all parties that no oral motions may be made during these proceedings.

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

.....
CHRISTOPHER M. HEBEN, P.A., Case No. 12-CRF-036
.....

Dr. Steinbergh moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Christopher M. Heben, P.A. Dr. Madia seconded the motion.

.....
Dr. Ramprasad moved to amend the Proposed Order to remove Sections E, F, and G. Dr. Suppan seconded the motion.
.....

Dr. Ramprasad wished to change his motion to amend to include a requirement that Mr. Heben make a personal appearance before the Board as a condition of reinstatement or restoration of his license. As no member objected to the change, the change to the motion to amend was accepted. A vote on the motion to amend was taken:

ROLL CALL:	Dr. Strafford	- abstain
	Dr. Bechtel	- abstain
	Dr. Suppan	- aye
	Dr. Steinbergh	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Ms. Elsass	- aye
	Mr. Kenney	- aye
	Dr. Ramprasad	- aye

The motion to amend carried.

Dr. Steinbergh moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Christopher M. Heben, P.A. Dr. Madia seconded the motion. A vote was taken:

ROLL CALL:	Dr. Strafford	- abstain
	Dr. Bechtel	- abstain
	Dr. Suppan	- aye
	Dr. Steinbergh	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Ms. Elsass	- aye
	Mr. Kenney	- aye
	Dr. Ramprasad	- aye

The motion to approve carried.

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.
Executive Director

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med.ohio.gov

April 11, 2012

Case number: 12-CRF- 036

Christopher McKinley Heben, P.A.
2871 Erie Drive
Fairlawn, Ohio 44333

Dear Mr. Heben:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] intends to determine whether or not to limit, revoke, permanently revoke, or suspend your certificate to practice 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 April 8, 2009, you entered into a Step I Consent Agreement with the Board based on your violation of Section 4730.25(B)(11), Ohio Revised Code, in response to your conviction in the Court of Common Pleas, Lake County, Ohio, for three counts of Forgery, in violation of Section 2913.31(A)(3), Ohio Revised Code, felonies of the fifth degree. The conduct implicated in the finding of guilt involved your illicit forging of prescriptions for controlled substances, and furthermore, using your position as a physician assistant to facilitate the commission of these offenses. Under the terms of your Step I Consent Agreement, your certificate to practice as a physician assistant was permanently revoked, with said permanent revocation stayed; and you were suspended for an indefinite period of time, not less than two years, subject to various agreed conditions. At this time, you remain suspended under the terms of your Step I Consent Agreement, which is still in effect.
- (2) Paragraph 5. of your Step I Consent Agreement provides:

[You] shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. [You] shall ensure that all screening reports are

Mailed 4-12-12

forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board, and shall include [your] drug(s) of choice.

Despite the requirements of paragraph 5. of your Step I Consent Agreement, you failed to provide at least four urine specimens during the following months:

- September 2009
- November 2009
- June 2010
- August 2010
- October 2010
- November 2010
- May 2011
- June 2011
- January 2012
- February 2012

- (3) Paragraph 7. of your Step I Consent Agreement provides “[a]ll such urine screenings for drugs and alcohol shall be conducted through a Board-approved drug testing facility and collection site, . . . and the screening process shall require a daily call-in procedure.” Further, subparagraph 7.a. provides:

[You] shall submit, at [your] expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by [you] shall be negative, except for those substances prescribed, administered, or dispensed to [you] in conformance with the terms, conditions and limitations set forth in this Consent Agreement. Refusal to submit such specimen, or failure to submit such specimen on the day [you are] selected or in such manner as the Board may request, shall constitute a violation of this Consent Agreement.

Moreover, subparagraph 7.c. provides:

[You] shall ensure that the urine screening process performed through the Board-approved drug testing facility and/or collection site requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and that the giving of the specimen is witnessed by a reliable person. In addition, [you] and the Board-approved drug testing facility and collection site shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- (a) Despite the requirements contained in paragraph 7., you failed to call in at all on or about September 7 – 10, 2009; September 12 – 13, 2009; October 20 – 24, 2009; November 14, 2009; November 25, 2009; December 14 – 15, 2009; January 9, 2010; January 23, 2010; February 8, 2010; March 7, 2010; March 14, 2010; June 20, 2010; June 29, 2010; July 2, 2010; September 19, 2010; October 30, 2010; January 8, 2011; January 15, 2011; May 30, 2011; June 30, 2011; July 3, 2011; July 30, 2011; August 23, 2011; August 26, 2011; September 11, 2011; October 5, 2011; October 26, 2011; November 11 – 12, 2011; November 26, 2011; December 3, 2011; January 20, 2012; January 26, 2012; January 30, 2012; February 5, 2012; and February 25, 2012.
- (b) Further, despite the requirements contained in paragraph 7., you called in late on or about September 5, 2009; October 13, 2009; December 25, 2009; April 3, 2010; September 12, 2010; November 3, 2010; December 14, 2010; January 22, 2011; January 24, 2011; January 30, 2011; February 3, 2011; February 17, 2011; March 1, 2011; March 18, 2011; May 6, 2011; May 8, 2011; May 16, 2011; May 27, 2011; June 5, 2011; June 9, 2011; July 28, 2011; August 6 – 7, 2011, August 11 – 12, 2011; September 3, 2011; September 9, 2011; October 8, 2011; October 19, 2011; October 23, 2011; November 3, 2011; November 9, 2011; November 20, 2011; December 23, 2011; January 24, 2012; February 8, 2012; and February 11 – 12, 2012.
- (c) Further, despite the requirements contained in paragraph 7., you called in late and/or failed to call in at all on dates scheduled for you to provide a urine specimen, resulting in no specimen being collected on or about September 11, 2009; November 5, 2009; December 1, 2009; August 26, 2010; July 11, 2011; November 15, 2011; December 5, 2011; December 16, 2011; and December 27, 2011.
- (d) Further, despite the requirements contained in paragraph 7., you called in and were notified that you were required to submit a urine specimen yet you failed to submit a urine specimen as required on or about February 5, 2010; June 21, 2010; November 19, 2010; May 13, 2011; June 23, 2011; August 19, 2011; January 17, 2012; January 19, 2012; February 10, 2012; and February 28, 2012.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) through (3) above, individually and/or collectively, constitute a “[v]iolation of the conditions placed by the board on a certificate to practice as a physician assistant, a certificate to prescribe, a physician supervisory 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 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 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 to practice as a physician assistant, refuse to issue or reinstate your certificate or to reprimand you or place you on probation.

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

Further, pursuant to Section 4730.50, Ohio Revised Code, “If a sanction under section 4730.25 of the Revised Code applies to a physician assistant’s certificate to practice, the same sanction is placed on the physician assistant’s certificate to prescribe while the sanction applies to the certificate to practice.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,

Handwritten signature of J. Craig Strafford in black ink, with the initials "MS MPM" written to the right of the signature.

J. Craig Strafford, M.D., M.P.H.
Secretary

JCS/DSZ/flb

Enclosures

CERTIFIED MAIL #91 7199 9991 7030 3383 3231

RETURN RECEIPT REQUESTED

STEP I
CONSENT AGREEMENT
BETWEEN
CHRISTOPHER MCKINLEY HEBEN, P.A.,
AND
THE STATE MEDICAL BOARD OF OHIO
Case No. 08-CRF-121

This Consent Agreement is entered into by and between Christopher McKinley Heben, P.A. [Mr. Heben], and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapter 4730., Ohio Revised Code.

Mr. Heben 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.

BASIS FOR ACTION

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by R.C. 4730.25(B), to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for any of the enumerated violations.
- B. The Board and Mr. Heben enter into this Consent Agreement in lieu of further formal proceedings based upon the allegations set forth in the Notice of Opportunity for Hearing issued on October 8, 2008, attached hereto as Exhibit A and incorporated herein by this reference. The Board expressly reserves the right to institute additional formal proceedings based upon any other violations of R.C. Chapter 4730., whether occurring before or after the effective date of this Consent Agreement.
- C. Mr. Heben is licensed to practice as a physician assistant in the State of Ohio, License #50-002432. Mr. Heben's License to practice as a physician assistant in Ohio has been inactive since January 31, 2008 for failure to renew. Mr. Heben is not licensed to practice as a physician assistant in any other state.
- D. Mr. Heben admits to the factual and legal allegations as set forth in the October 8, 2008, Notice of Opportunity for Hearing.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, Mr. Heben knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

PERMANENT REVOCATION, STAYED; SUSPENSION

1. The certificate of Mr. Heben to practice as a physician assistant in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED, and Mr. Heben's certificate shall be suspended for an indefinite period of time, but not less than two years.

Obey all Laws

2. Mr. Heben shall obey all federal, state, and local laws.

Chemical Dependency Evaluation

3. Within thirty days of the effective date of this Consent Agreement, or as otherwise determined by the Board, Mr. Heben shall undergo and complete a 72-hour in-patient evaluation for chemical dependency, in conformance with Rule 4731-16-05, Ohio Administrative Code, at a Board-approved treatment provider for the purpose of determining whether he is in violation of Section 4730.25(B)(5), Ohio Revised Code, to wit: "[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." Mr. Heben shall be solely responsible for the expense of this evaluation, and shall ensure that the Board-approved treatment provider forwards a written report to the Board within fourteen days following completion of such evaluation.

Prior to such 72-hour in-patient evaluation for chemical dependency, Mr. Heben shall notify the Board of the proposed date and location of the evaluation. Further, Mr. Heben shall furnish the Board-approved treatment provider copies of this Consent Agreement, all treatment records related to any prior mental health care treatment, all records related to any prior substance abuse treatment, and any other documentation that Mr. Heben may deem appropriate or helpful to the Board-approved treatment provider. The Board may also provide documentation of any other information that the Board deems appropriate or helpful to the Board-approved treatment provider.

Sobriety

4. Mr. Heben shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Mr. Heben's history of chemical dependency. Further, in the event that Mr. Heben is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Mr. Heben shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Mr. Heben received; the medical purpose for which he received said drug; the date such drug was initially received; and the dosage, amount, number of refills, and directions for use. Further, within thirty days of the date said drug is so prescribed, dispensed, or administered to him, Mr. Heben shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.

Drug & Alcohol Screens; Drug Testing Facility and Collection Site

5. Mr. Heben shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Mr. Heben 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, and shall include Mr. Heben's drug(s) of choice.
6. Mr. Heben shall abstain from the use of any substance and the consumption of poppy seeds or any other food or liquid that may produce a low level positive result in a toxicology screen. Mr. Heben acknowledges that he understands that the consumption or use of such substances, including but not limited to substances such as mouthwash or hand cleaning gel, may cause a positive drug screen that may not be able to be differentiated from intentional ingestion, and therefore such consumption or use is prohibited under this Consent Agreement.
7. All such urine screenings for drugs and alcohol shall be conducted through a Board-approved drug testing facility and collection site, except as provided in Paragraph 7 below, and the screening process shall require a daily call-in procedure.
 - a. Mr. Heben shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by Mr. Heben shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Consent Agreement. Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Consent Agreement.

- b. Further, within thirty days of the effective date of this Consent Agreement, Mr. Heben shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug testing facility and/or collection site in order to facilitate the urine screening process in the manner required by this Consent Agreement. Further, within thirty days of making such arrangements, Mr. Heben shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Mr. Heben and the Board-approved drug testing facility and/or collection site. Mr. Heben's failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Consent Agreement.
 - c. Mr. Heben shall ensure that the urine screening process performed through the Board-approved drug testing facility and/or collection site requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and that the giving of the specimen is witnessed by a reliable person. In addition, Mr. Heben and the Board-approved drug testing facility and collection site shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.
 - d. Mr. Heben shall ensure that the Board-approved drug testing facility and/or collection site provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.
 - f. In the event that the Board-approved drug testing facility and/or collection site becomes unable or unwilling to serve as required by this Consent Agreement, Mr. Heben must immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 7 below, as soon as practicable. Mr. Heben shall further ensure that the Board-approved drug testing facility and/or collection site also notifies the Board directly of its inability to continue to serve and the reasons therefore.
 - g. Mr. Heben acknowledges that the Board expressly reserves the right to withdraw its approval of any drug testing facility and/or collection site in the event that the Secretary and Supervising Member of the Board determine that the drug testing facility and/or collection site has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
8. Mr. Heben and the Board agree that it is the intent of this Consent Agreement that Mr. Heben shall submit his urine specimens to the Board-approved drug testing

facility and collection site chosen by the Board. However, in the event that utilizing said Board-approved drug testing facility and/or collection site creates an extraordinary hardship upon Mr. Heben, as determined in the sole discretion of the Board, then subject to the following requirements, the Board may approve an alternate drug testing facility and/or collection site, or a supervising physician, to facilitate the urine screening process for Mr. Heben.

- a. Within thirty days of the date upon which Mr. Heben is notified of the Board's determination that utilizing the Board-approved drug testing facility and/or collection site constitutes an extraordinary hardship upon Mr. Heben, he shall submit to the Board in writing for its prior approval the identity of either an alternate drug testing facility and collection site, or the name of a proposed supervising physician, to whom Mr. Heben shall submit the required urine specimens. In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Mr. Heben's residence or employment location, or to a physician who practices in the same locale as Mr. Heben. Mr. Heben shall ensure that the urine screening process performed through the alternate drug testing facility and/or collection site, or through the supervising physician, requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and that the giving of the specimen is witnessed by a reliable person. In addition, Mr. Heben acknowledges that the alternate drug testing facility and collection site, or the supervising physician, shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.
- b. Mr. Heben shall ensure that the alternate drug testing facility and/or collection site, or the supervising physician, provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.
- c. In the event that the designated alternate drug testing facility and/or collection site, or the supervising physician, becomes unable or unwilling to so serve, Mr. Heben must immediately notify the Board in writing. Mr. Heben shall further ensure that the previously designated alternate drug testing facility and collection site, or the supervising physician, also notifies the Board directly of the inability to continue to serve and the reasons therefore. Further, in order to ensure that there will be no interruption in her urine screening process, upon the previously approved alternate drug testing facility, collection site, or supervising physician becoming unable to serve, Mr. Heben shall immediately commence urine screening at the Board-approved drug testing facility and collection site chosen by the Board, until such time, if any, that the Board approves a

subsequent alternate drug testing facility, collection site, or supervising physician, if requested by Mr. Heben.

- d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Mr. Heben's designated alternate drug testing facility and/or collection site, or any person proposed to serve as his supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
9. All screening reports required under this Consent Agreement from the Board-approved drug testing facility and/or collection site, or from the alternate drug testing facility and/or collection site or supervising physician, must be received in the Board's offices no later than the due date for Mr. Heben's quarterly declaration. It is Mr. Heben's responsibility to ensure that reports are timely submitted.
 10. The Board retains the right to require, and Mr. Heben agrees to submit, blood, urine, breath, saliva and/or hair specimens for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Mr. Heben, or for any other purpose, at Mr. Heben's expense upon the Board's request and without prior notice. Mr. Heben's refusal to submit a specimen upon request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.

Releases; Quarterly Declarations and Appearances

11. Mr. Heben shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Mr. Heben's chemical abuse or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Mr. Heben further agrees to provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.

12. Mr. Heben shall submit quarterly declarations under penalty of Board disciplinary action and/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 this Consent Agreement becomes effective, provided that if the effective date is on or after the sixteenth 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.
13. Mr. Heben shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Consent Agreement. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

CONDITIONS FOR RESTORATION

14. The Board shall not consider restoration of Mr. Heben's certificate to practice as a physician assistant until all of the following conditions are met:
 - a. Mr. Heben shall submit an application for restoration, accompanied by appropriate fees.
 - b. Mr. Heben shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
 - i. In the event that the chemical dependency evaluation referenced in paragraph 3 above results in a determination that Mr. Heben is impaired in his 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, certification from a treatment provider approved under Section 4731.25 of the Revised Code that Mr. Heben has successfully completed any required inpatient treatment, including at least twenty-eight days of in-patient or residential treatment for chemical dependence, as set forth in Rules 4731-16-02(B)(4)(a) and 4731-16-08(A)(13), Ohio Administrative Code, completed consecutively, and evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed

aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.

Pursuant to Rule 4731-16-01, Ohio Administrative Code, "impairment" means 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. Impairment includes inability to practice in accordance with such standards, and inability to practice in accordance with such standards without appropriate treatment, monitoring or supervision.

- ii. In the event that the chemical dependency evaluation referenced in paragraph 3 above results in a determination that Mr. Heben is impaired in his 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, two written reports indicating that Mr. Heben's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Mr. Heben. Prior to the assessments, Mr. Heben shall provide the evaluators with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Consent Agreement. The reports from the evaluators shall include any recommendations for treatment, monitoring, or supervision of Mr. Heben, and any conditions, restrictions, or limitations that should be imposed on Mr. Heben's practice. The reports shall also describe the basis for the evaluator's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement.

- iii. Evidence of continuing full compliance with this Consent Agreement.
- c. Prior to submitting his application for restoration, Mr. Heben shall take and pass the PANRE (Physician Assistant National Recertifying Examination) (or Pathway II) examination or any similar written examination which the Board may deem appropriate to assess Mr. Heben's clinical competency.

- d. Mr. Heben shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board within 180 days of the date upon which all the above-specified conditions for restoration have been completed or, if the Board and Mr. Heben are unable to agree on the terms of a written Consent Agreement, then Mr. Heben further agrees to abide by any terms, conditions and limitations imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Ohio Revised Code. The Board shall provide notice to Mr. Heben that said hearing has been scheduled, advising Mr. Heben of his hearing rights, and stating the date, time and location of the hearing at which the Board will present its evidence, after which the Board will make a determination of the matter by Board Order.

Further, upon restoration of Mr. Heben's certificate to practice as a physician assistant in this state, the Board shall require continued monitoring which shall include, but not be limited to, compliance with the written consent agreement entered into before restoration or with conditions imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Revised Code. Moreover, in the event that the chemical dependency evaluation referenced in paragraph 3 above results in a determination that Mr. Heben is impaired in his 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, upon termination of the consent agreement or Board Order, Mr. Heben shall submit to the Board for at least two years annual progress reports made under penalty of Board disciplinary action or criminal prosecution stating whether Mr. Heben has maintained sobriety.

REQUIRED REPORTING BY LICENSEE

15. Within thirty days of the effective date of this Consent Agreement, Mr. Heben shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services (including but not limited to third party payors) or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Mr. Heben shall promptly provide a copy of this Consent Agreement to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments. Further, Mr. Heben shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated

- report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
16. Within thirty days of the effective date of this Consent Agreement, Mr. Heben shall provide a copy of this Consent Agreement to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Mr. Heben further agrees to provide a copy of this Consent Agreement at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement of any professional license. Further, Mr. Heben shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
17. Mr. Heben shall notify the Board in writing of any change of principal practice address or residence address within thirty days of such change.

DURATION/MODIFICATION OF TERMS

In the event that the Board initiates future formal proceedings against Mr. Heben, including but not limited to issuance of a Notice of Opportunity for Hearing, this Consent Agreement shall continue in full force and effect until such time that it is superseded by ratification by the Board of a subsequent Consent Agreement or issuance by the Board of a final Board Order.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Mr. Heben 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 Consent Agreement.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Mr. Heben 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. Heben hereby releases the Board, 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. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Mr. Heben acknowledges that his social security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

EFFECTIVE DATE

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 shall become effective upon the date of the last signature below.


CHRISTOPHER MCKINLEY HEBEN, P.A.

3-24-09
DATE


LANCE A. TALMAGE, M.B.
Secretary

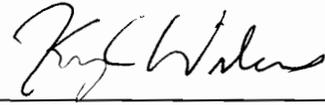
4-8-09
DATE


WALTER A. LUCAS, ESQ.
Attorney for Mr. Heben

3/25/09
DATE


RAYMOND J. ALBERT
Supervising Member

4/8/09
DATE



KYLE C. WILCOX.
Assistant Attorney General

4-2-09

DATE

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

October 8, 2008

Case number: 08-CRF- *121*

Christopher McKinley Heben, P.A.
1401 South Arch Avenue
Alliance, Ohio 44601

Dear Mr. Heben:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] intends to determine whether or not to limit, revoke, permanently revoke, or suspend your certificate to practice 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 21, 2008, in the Court of Common Pleas, Lake County, Ohio, you entered a plea of no contest to, and were found guilty of, three counts of Forgery in violation of Section 2913.31(A)(3), Ohio Revised Code, felonies of the fifth degree. The conduct implicated in the finding of guilt involved your illicit forging of prescriptions for controlled substances, and furthermore, using your position as a physician assistant to facilitate the commission of these offenses. On or about August 28, 2008, you were sentenced, *inter alia*, to serve ninety days in the Lake County Jail, with fifty-seven days credit for time served, sentenced to two years of community control, and ordered to pay court costs.

Your plea of guilty or the judicial finding of guilt as alleged in paragraph (1) above, individually and/or collectively, constitutes "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as that clause is used in Section 4730.25(B)(11), Ohio Revised Code.

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

Mailed 10.09.08

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

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke or suspend your certificate to practice as a physician assistant, refuse to issue or reinstate your certificate or to reprimand you or place you on probation.

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT/DSZ/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3934 3685 9148
RETURN RECEIPT REQUESTED

Duplicate Mailing:

Christopher McKinley Heben, P.A.
2415 Union Avenue
Minerva, Ohio 44657

CERTIFIED MAIL #91 7108 2133 3934 3685 9186
RETURN RECEIPT REQUESTED - RESTRICTED DELIVERY