



State Medical Board of Ohio

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

February 9, 2005

JoCinda Kay Ferguson
748 High St.
Middleport, Ohio 45760

Dear Ms. Ferguson:

Please find enclosed a certified copy of the Findings, Order and Journal Entry approved and confirmed by the State Medical Board meeting in regular session on February 9, 2005.

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 of the Ohio Revised Code.

Very truly yours,

Lance A. Talmage, M.D.
Secretary

LAT/blt
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5142 9839
RETURN RECEIPT REQUESTED

MAILED 2-10-05

CERTIFICATION

I hereby certify that the attached copy of the Findings, Order and Journal Entry approved by the State Medical Board, meeting in regular session on February 9, 2005, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of JoCinda Kay Ferguson as it appears in the Journal of the State Medical Board of Ohio.

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


Lance A. Talmage, M.D., Secretary

(SEAL)

February 9, 2005

Date

THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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JOCINDA KAY FERGUSON

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FINDINGS, ORDER AND JOURNAL ENTRY

On December 15, 2004, the State Medical Board of Ohio [Board] sent a letter via certified mail, return receipt requested, to JoCinda Kay Ferguson, an applicant for a certificate to practice a limited branch-massage therapy, stating that the Board had reason to believe that Ms. Ferguson was unable to practice massage therapy according to acceptable and prevailing standards of care pursuant to Section 4731.22(B)(26), 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.”

The letter further indicated that this determination was based upon one or more of the following reasons:

- (1) On or about September 1, 2003, Ms. Ferguson submitted to the Board an Application for Certificate to Practice a Limited Branch – Massage Therapy. In said 2003 Application, Ms. Ferguson responded “yes” to question 22 of the Application, to wit: Are you currently engaged in the illegal use of controlled substances? In explanation of the affirmative answer, Ms. Ferguson advised the Board that she became addicted to Vicodin as a result of a dislocated hip, which occurred during childbirth. Ms. Ferguson further stated that, on or about May 3, 2003, she entered the Chemical Dependency Unit of Marietta Memorial Hospital, where she completed seven days of inpatient treatment and fourteen days of outpatient treatment. Ms. Ferguson also advised the Board that, as of August 19, 2003, she was participating in twelve weeks of outpatient counseling through Marietta Memorial Hospital. Ms. Ferguson stated that the evaluators at the Chemical Dependency Unit of Marietta Memorial Hospital concluded that she was “physically addicted to the medication and not mentally addicted.”
- (2) On or about November 3, 2003, the Board received a letter from Rick D. St. Onge, M.D., who advised the Board that Ms. Ferguson had been a patient of his for obstetrics and gynecology for several years, that Ms. Ferguson had a past history of opioid dependence, which began when she was being treated for chronic hip pain, and that Ms. Ferguson had undergone treatment and had been clinically normal for several months.

- (3) On or about December 23, 2003, Ms. Ferguson advised a representative of the Board that she was willing to sign Consents for Disclosure authorizing the following persons and/or entities to release to the Board any and all medical records concerning Ms. Ferguson: Marietta Memorial Hospital and/or its Chemical Dependency Unit; Rick St. Onge, M.D.; Scott E. Smith, D.O.; and Holzer Clinic. The first set of Consent for Disclosure forms was mailed to Ms. Ferguson on or about December 30, 2003. At Ms. Ferguson's request, the Board prepared a second set of Consent for Disclosure forms, three of which had been limited to obtain the medical records concerning treatment of Ms. Ferguson from May 1, 2002, the date Ms. Ferguson claimed her hip was dislocated during childbirth, through the present date. On or about February 9, 2004, the Board mailed to Ms. Ferguson the second set of Consent for Disclosure forms. On or about March 22, 2004, Ms. Ferguson submitted to the Board a Massage Therapy Re-Examination Application for the June 2004 massage therapy examination and again responded "yes" to question 22 of the Application, indicating that the issue was "already being taken care of by" a representative of the Board. On or about July 20, 2004, Ms. Ferguson was notified that, although she had passed the June examination, the Board would not issue Ms. Ferguson a certificate to practice massage therapy until the Board was satisfied that there were no outstanding concerns or impediments to her licensure. At said time, the Board sent to Ms. Ferguson a third set of Consent for Disclosure forms. To date, Ms. Ferguson has failed to return any of the Consents for Disclosure, which were requested by the Board.

Although Ms. Ferguson claims to have successfully completed treatment for her opiate addiction and to be free of chemical dependence, Ms. Ferguson has refused to provide the Board access to any medical or treatment records that would support her explanation as to the time and manner in which she became addicted to Vicodin and/or support her claims that she has successfully completed treatment and that she is not now chemically dependent.

The December 15, 2004, certified letter from the Board further notified JoCinda Kay Ferguson that, pursuant to Section 4731.22(B)(26), Ohio Revised Code, she was ordered to submit to a three-day in-patient evaluation. The examination was scheduled to take place at Bethesda Oak Alcohol and Treatment Program, 619 Oak Street, 4-west, Cincinnati, Ohio, beginning at 8:15 a.m., on Wednesday, January 26, 2005.

The December 15, 2004, certified letter from the Board further notified Ms. Ferguson that failure of an individual to submit to an examination as directed constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control. Finally, the letter notified Ms. Ferguson that if she failed to submit to the examination, and such failure was not due to circumstances beyond her control, the Board would be authorized to enter a default and final order without the taking of testimony or presentation of evidence.

Ms. Ferguson was duly notified of the examination order and its scheduled date. The certified letter was sent to Ms. Ferguson's address of record. The certified letter return receipt, dated December 16, 2004, is signed by JoAnna Ferguson, who has previously signed for JoCinda Ferguson's certified mail. On January 26, 2005, the Board was notified telephonically by a representative of Bethesda Oak Alcohol and Treatment Program that Ms. Ferguson failed to appear at Bethesda Oak Alcohol and Treatment Program for the chemical dependency evaluation that the Board scheduled for her. On February 1, 2005, the Board received a faxed letter, from Bethesda Oak Alcohol and Treatment Program, confirming Ms. Ferguson's failure to appear for the examination as ordered by the Board. At no time did Ms. Ferguson inform the Board that her failure to appear was due to circumstances beyond her control.

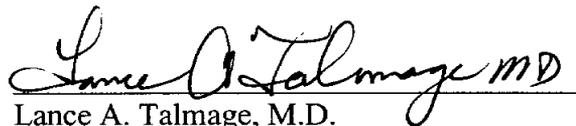
WHEREFORE, upon consideration of the affidavits of Kathleen S. Peterson, Enforcement Attorney, and Penny Grubb, Chief, Licensure, copies of which are attached hereto and fully incorporated herein, and pursuant to Section 4731.22(B)(26), Ohio Revised Code, the Board hereby FINDS that JoCinda Kay Ferguson has admitted the truth of the allegations set forth in the December 15, 2004, letter from the Board to Ms. Ferguson. The Board further FINDS that Ms. Ferguson is unable to practice massage therapy according to acceptable and prevailing standards of care pursuant to Section 4731.22(B)(26), 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."

WHEREFORE, it is hereby ORDERED that:

The application of JoCinda Kay Ferguson to practice massage therapy in the State of Ohio shall be DENIED.

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

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 9th day of February, 2005, and the original thereof shall be kept with said Journal.



Lance A. Talmage, M.D.

Secretary

(SEAL)

February 9, 2005

Date

AFFIDAVIT

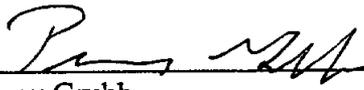
The State of Ohio
Franklin County, SS

I, Penny Grubb, being duly cautioned and sworn, do hereby depose and say that:

- 1) I am employed by the State Medical Board of Ohio [Board].
- 2) I serve the Board in the position of Chief of Licensure.
- 3) In such position I am the responsible custodian of all records for application of licensure maintained by the Board pursuant to Chapter 4731., Ohio Revised Code.
- 4) I have this day carefully examined the Application for Certificate to Practice a Limited Branch – Massage Therapy, the Massage Therapy Re-Examination Application and associated records of the Board pertaining to JoCinda Kay Ferguson.
- 5) Based on my examination of the licensure application and associated records, I have found that said licensure application was submitted to the Board by JoCinda Kay Ferguson on September 1, 2003, and that said licensure application remains pending.
- 6) Based on my examination of the licensure application and associated records, I have found the last known address of record of JoCinda Kay Ferguson, M.T., to be:

748 High St.
Middleport, Ohio 45760

- 7) Further, Affiant Sayeth Naught.



Penny Grubb
Chief, Licensure

Sworn to and signed before me Angela D. Fields, Notary Public, this 2nd day of February, 2005.



ANGELA D. FIELDS
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 05/11/06



Notary Public

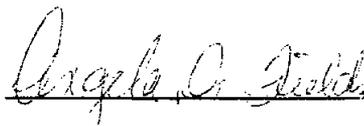
AFFIDAVIT

The State of Ohio
Franklin County, SS

I, Kathleen S. Peterson, being duly cautioned and sworn, do hereby depose and state that the following is true based upon my first-hand knowledge:

- 1) I am an Enforcement Attorney employed by the State Medical Board of Ohio [Board]. My duties include coordinating the investigation of complaints against applicants and licensees under the jurisdiction of the Board and assembling the evidence necessary to prove potential violations of the Medical Practices Act of Ohio, Chapter 4731., Ohio Revised Code.
- 2) I coordinated the investigation into the application of JoCinda Kay Ferguson for a certificate to practice massage therapy in Ohio, which resulted in an order from the Board for Ms. Ferguson to submit to an examination pursuant to Section 4731.22(B)(26), Ohio Revised Code.
- 3) A letter, which contained the above referenced Board order and which is attached hereto and incorporated herein, ordered Ms. Ferguson to submit to a three-day in-patient evaluation at Bethesda Oak Alcohol and Treatment Program, 619 Oak Street, 4-west, Cincinnati, Ohio, on Wednesday, January 26, 2005, and was sent certified mail on December 15, 2004.
- 4) The December 15, 2004, certified letter was sent to Ms. Ferguson at the following address: 748 High St., Middleport, Ohio 45760.
- 5) On December 17, 2004, I received a certified mail return receipt, showing that the certified letter to Ms. Ferguson had been delivered to the address set forth in paragraph 4 and had been signed for by JoAnna Ferguson.
- 6) On January 26, 2005, I was notified telephonically, by a representative of Bethesda Oak Alcohol and Treatment Program [Bethesda], that Ms. Ferguson failed to appear at Bethesda for the examination that the Board scheduled for her. On February 1, 2005, I received a faxed letter confirming Ms. Ferguson's failure to appear for the examination ordered by the Board.
- 7) At no time did Ms. Ferguson ever contact the Board to explain why she failed to appear for the examination ordered by the Board.
- 8) Further, Affiant Sayeth Naught.


Kathleen S. Peterson, Enforcement Attorney

Sworn to and signed before me,  Notary Public, this 2nd day of February, 2005.



ANGELA D. FIELDS
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 05/14/06


Notary Public



State Medical Board of Ohio

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

December 15, 2004

Personal and Confidential

JoCinda Kay Ferguson, M.T.
748 High St.
Middleport, Ohio 45760

Dear Ms. Ferguson:

The State Medical Board of Ohio [Board] has determined that it has reason to believe that you are in violation of Section 4731.22(B)(26), 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.”

This determination is based upon one or more of the following reasons:

- (1) On or about September 1, 2003, you submitted to the Board an Application for Certificate to Practice a Limited Branch – Massage Therapy. In said 2003 Application, you responded “yes” to question 22 of the Application, to wit: Are you currently engaged in the illegal use of controlled substances? In explanation of your affirmative answer, you advised the Board that you became addicted to Vicodin as a result of a dislocated hip, which occurred during childbirth. You further stated that, on or about May 3, 2003, you entered the Chemical Dependency Unit of Marietta Memorial Hospital, where you completed seven days of inpatient treatment and fourteen days of outpatient treatment. You also advised the Board that, as of August 19, 2003, you were participating in twelve weeks of outpatient counseling through Marietta Memorial Hospital. You stated that the evaluators at the Chemical Dependency Unit of Marietta Memorial Hospital concluded that you were “physically addicted to the medication and not mentally addicted.”
- (2) On or about November 3, 2003, the Board received a letter from Rick D. St. Onge, M.D., who advised the Board that you had been a patient of his for obstetrics and gynecology for several years, that you had a past history of opioid dependence, which began when you were being treated for chronic hip pain, and that you had undergone treatment and had been clinically normal for several months.
- (3) On or about December 23, 2003, you advised a representative of the Board that you were willing to sign Consents for Disclosure authorizing the following

persons and/or entities to release to the Board any and all medical records concerning you: Marietta Memorial Hospital and/or its Chemical Dependency Unit; Rick St. Onge, M.D.; Scott E. Smith, D.O.; and Holzer Clinic. The first set of Consent for Disclosure forms were mailed to you on or about December 30, 2003. At your request, the Board prepared a second set of Consent for Disclosure forms, three of which had been limited to obtain the medical records concerning treatment of you from May 1, 2002, the date you claimed your hip was dislocated during childbirth. On or about February 9, 2004, the Board mailed to you the second set of Consent for Disclosure forms. On or about March 22, 2004, you submitted to the Board a Massage Therapy Re-Examination Application for the June 2004 massage therapy examination and again responded "yes" to question 22 of the Application, indicating that the issue was "already being taken care of by" a representative of the Board. On or about July 20, 2004, you were notified that, although you had passed the June examination, the Board would not issue you a certificate to practice massage therapy until the Board was satisfied that there were no outstanding concerns or impediments to your licensure. At said time, the Board sent to you a third set of Consent for Disclosure forms. To date, you have failed to return any of the Consents for Disclosure, which were requested by the Board.

Although you claim to have successfully completed treatment for your opiate addiction and to be free of chemical dependence, you have refused to provide the Board access to any medical or treatment records that would support your explanation as to the time and manner in which you became addicted to Vicodin and/or support your claims that you have successfully completed treatment and that you are not now chemically dependent.

By the authority vested in the State Medical Board of Ohio by Section 4731.22(B)(26), Ohio Revised Code, **you are ordered to submit to an examination.** This examination will take place at **Bethesda Oak Alcohol and Treatment Program, 619 Oak Street, 4-west, Cincinnati, Ohio.** You are to report to Mark Davis, on **Wednesday, January 26, 2005, at 8:15 a.m.,** for a three-day in-patient evaluation. You are to contact Mark Davis, at Bethesda, telephone number (513) 569-6020, no later than January 17, 2005.

Pursuant to Section 4731.22(B)(26), Ohio Revised Code, you are responsible for the expense of this evaluation. The total estimated cost of this evaluation is \$ 2000.00. You must present a certified check or money order in this amount made payable to Bethesda Alcohol and Drug Treatment Program to the examiner prior to the beginning of the examination. Failure to present a certified check or money order in the amount specified to the examiner will result in the examination being cancelled, and will be deemed by the Board to be a failure to submit to the examination as directed due to circumstances within your control.

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JOCINDA KAY FERGUSON, M.T.
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Please be advised that failure to submit to this examination as directed constitutes an admission of the allegations against you unless the failure is due to circumstances beyond your control, and that a default and final order may thereupon be entered without the taking of testimony or presentation of evidence.

Copies of the applicable statute sections are enclosed for your information.

Very truly yours,

A handwritten signature in black ink that reads "Lance A. Talmage, M.D." The signature is written in a cursive style with a large initial 'L'.

Lance A. Talmage, M.D.
Secretary

LAT/blt
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5143 7643
RETURN RECEIPT REQUESTED