



State Medical Board of Ohio

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

January 12, 2005

Thomas R. Pickett, P.A.
2710 Montcalm Road
Columbus, OH 43221

Dear Mr. Pickett:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Siobhan R. Clovis, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 12, 2005, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

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. 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

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

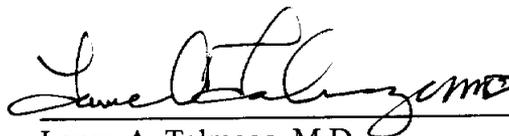
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RETURN RECEIPT REQUESTED

MAILED 1-14-05

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Siobhan R. Clovis, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 12, 2005, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Thomas R. Pickett, P.A., as it appears in the Journal of the State Medical Board of Ohio.

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



Lance A. Talmage, M.D.
Secretary

(SEAL)

January 12, 2005
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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THOMAS R. PICKETT, P.A.

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ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on January 12, 2005.

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

It is hereby ORDERED that:

- A The application of Thomas R. Pickett, P.A., for a certificate to practice as a physician assistant in the State of Ohio is GRANTED, provided that he otherwise meets all statutory and regulatory requirements. Immediately upon issuance, such certificate shall be SUSPENDED for an indefinite period of time, but not less than one hundred and eighty days.
- B. **INTERIM MONITORING:** During the period that Mr. Pickett's certificate to practice as a physician assistant in Ohio is suspended, Mr. Pickett shall comply with the following terms, conditions, and limitations:
1. **Obey the Law:** Mr. Pickett shall obey all federal, state, and local laws, and all rules governing the practice of a physician assistant in Ohio.
 2. **Personal Appearances:** Mr. Pickett 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 Order. 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.

3. **Quarterly Declarations:** Mr. Pickett 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 this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
4. **Abstention from Drugs:** Mr. Pickett shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Mr. Pickett's history of chemical dependency.
5. **Abstention from Alcohol:** Mr. Pickett shall abstain completely from the use of alcohol.
6. **Comply with the Terms of the Aftercare Contract:** Mr. Pickett shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided that, where terms of the aftercare contract conflict with terms of this Order, the terms of this Order shall control.
7. **Drug & Alcohol Screens; Supervising Physician:** Mr. Pickett shall submit to random urine screenings for drugs and/or alcohol on a weekly basis or as otherwise directed by the Board. Mr. Pickett shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Mr. Pickett shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Mr. Pickett shall submit the required specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Mr. Pickett. Mr. Pickett and the supervising physician shall ensure 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, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Mr. Pickett shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

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

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

8. **Submission of Blood or Urine Specimens upon Request:** Mr. Pickett shall submit blood and urine specimens for analysis without prior notice at such times as the Board may request, at Mr. Pickett's expense.
 9. **Rehabilitation Program:** Mr. Pickett shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week, unless otherwise determined by the Board. Substitution of any other specific program must receive prior Board approval. Mr. Pickett shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Mr. Pickett's quarterly declarations.
 10. **Continued Compliance with a Contract with an Impaired Physicians Committee:** Mr. Pickett shall maintain continued compliance with the terms of the contract entered into with OPEP, or with another impaired physicians committee, approved by the Board, to assure continuous assistance in recovery and/or aftercare.
- C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Mr. Pickett's certificate to practice as a physician assistant until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Mr. Pickett shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Compliance with Interim Conditions:** Mr. Pickett shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.
 3. **Demonstration of Ability to Resume Practice:** Mr. Pickett 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:
 - a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Mr. Pickett has successfully completed any required inpatient treatment.
 - b. 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.
 - c. Evidence of continuing full compliance with this Order.
 - d. Two written reports indicating that Mr. Pickett's ability to practice has been evaluated for chemical dependency and/or impairment and that he has been found capable of practicing according to acceptable and prevailing standards of care. The evaluations shall have been performed by individuals or providers approved by the Board for making such evaluations. Moreover, the evaluations shall have been performed within sixty days prior to Mr. Pickett's application for reinstatement or restoration. The reports of evaluation shall describe with particularity the bases for the determination that Mr. Pickett has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his practice.
- D. **PROBATION:** Upon reinstatement or restoration, Mr. Pickett's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Mr. Pickett shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
 2. **Tolling of Probationary Period While Out of State:** Mr. Pickett shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
 3. **Noncompliance Will Not Reduce Probationary Period:** In the event Mr. Pickett is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Pickett's certificate will be fully restored.
- F. **VIOLATION OF THE TERMS OF THIS ORDER:** If Mr. Pickett 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.
- G. **RELEASES:** Mr. Pickett shall provide continuing 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. Pickett's chemical dependency and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. 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.

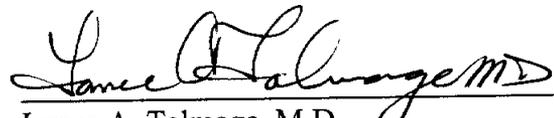
Mr. Pickett shall also provide the Board written consent permitting any treatment provider from whom Mr. Pickett obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

H. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Mr. Pickett shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Mr. Pickett shall provide a copy of this Order 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.

I. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Mr. Pickett shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he/she currently holds any professional license. Mr. Pickett shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration or restoration of any professional license. Further, Mr. Pickett shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board.

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

(SEAL)


Lance A. Talmage, M.D.
Secretary

January 12, 2005

Date

2004 NOV 23 A 9 21

**REPORT AND RECOMMENDATION
IN THE MATTER OF THOMAS R. PICKETT, P.A.**

The Matter of Thomas R. Pickett, P.A., was heard by Siobhan R. Clovis, Esq., Hearing Examiner for the State Medical Board of Ohio, on October 21, 2004.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated August 11, 2004, the State Medical Board of Ohio [Board] notified Thomas R. Pickett, P.A., that it had proposed to determine whether or not to limit, revoke, permanently revoke, or suspend Mr. Pickett's certificate of registration as a physician assistant, refuse to issue or reinstate his certificate, or to reprimand him or place him on probation. The Board based its proposed action on allegations that Mr. Pickett, who has a pending application for physician assistant registration, had been diagnosed as chemically dependant by a Board-approved treatment provider.

The Board alleged that the acts, conduct, and/or omissions of Mr. Pickett, individually and/or collectively, constitute: "[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," as that clause is used in Section 4730.25(B)(5), Ohio Revised Code."

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

- B. The Board received a written hearing request from Mr. Pickett on August 25, 2004. (State's Exhibit 1B).

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Tara L. Berrien, Assistant Attorney General.
- B. On behalf of the Respondent: Mr. Pickett, having been apprised of his right to be represented by counsel, appeared at the hearing on his own behalf.

EVIDENCE EXAMINED

I. Testimony Heard

A. Presented by the State

1. Thomas R. Pickett, P.A.
2. Chester Joseph Prusinski, D.O.

B. Presented by the Respondent

Thomas R. Pickett, P.A.

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A through 1O: Procedural exhibits.
2. State's Exhibit 2: Certified copies of documents maintained by the Board concerning Thomas R. Pickett, P.A. (Note: Social Security numbers were redacted from this exhibit).
- * 3. State's Exhibit 3: Copy of a June 24, 2004, letter to Mr. Pickett from the Board.
4. State's Exhibit 4: Certified copies of documents maintained by the Franklin County Municipal Court Clerk concerning Mr. Pickett.
- * 5. State's Exhibit 5: July 21, 2004, letter from Chester J. Prusinski, D.O., to the Board.
- * 6. State's Exhibit 6: Copy of a July 21, 2004, "Biopsychosocial Assessment" of Mr. Pickett.
- * 7. State's Exhibit 7: Copies of "Notes" written by Mr. Pickett during inpatient treatment at Glenbeigh Hospital.
- * 8. State's Exhibit 8: Copy of a June 24, 2004, letter from the Board to Dr. Prusinski.

B. Presented by the Respondent

1. Respondent's Exhibit A: Certified copies of Mr. Pickett's clinical evaluations during his studies at Cuyahoga Community College.
2. Respondent's Exhibit B: Notarized October 8, 2004, letter from Randy L. Orsborn, PA-C, to the Board, written in support of Mr. Pickett. (Note: the State did not have an opportunity to cross-examine Mr. Orsborn).
- * 3. Respondent's Exhibit C: Copy of Mr. Pickett's AA meeting attendance log, for the period of September 30, 2004, through October 20, 2004.
4. Respondent's Exhibit D: Copy of Mr. Pickett's aftercare meeting attendance log.
- * 5. Respondent's Exhibit E: Copy of Mr. Pickett's "Discharge Plan."
- * 6. Respondent's Exhibit F: Copy of Mr. Pickett's October 18, 2004, "Continuing Care Contract."
- * 7. Respondent's Exhibit G: Copy of Mr. Pickett's November 15, 2004, OPEP contract.

Note: All exhibits marked with an asterisk [*] have been sealed to protect confidentiality concerns.

PROCEDURAL MATTERS

The hearing record in this matter was initially held open until November 4, 2004, to give Respondent an opportunity to submit copies of his aftercare contract and his contract with the Ohio Physicians Effectiveness Program [OPEP]. The aftercare contract was timely submitted and entered into the record as Respondent's Exhibit F. However, Respondent's OPEP contract was not executed until after November 4, 2004. Counsel for the State advised that she did not object to the late submission of the OPEP contract. Accordingly, on November 17, 2004, the OPEP contract was received and entered into the record as Respondent's Exhibit G. The hearing record closed at that time. (See Hearing Transcript at 71-73).

SUMMARY OF THE EVIDENCE

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

1. Thomas R. Pickett, P.A., testified that he had graduated from high school in 1975, and that he had attended Ohio State University but that he had “flunked out” in 1981. He further testified that, in 1996, he had received an associate’s degree, with honors, in EMS technology and an associate’s degree in “multi competency health technology” from Columbus State Community College. In May 2003, Mr. Pickett graduated from Cuyahoga Community College with a degree of “Associate of Applied Science – Physician Assistant.” Mr. Pickett advised that he had graduated from that program with honors. (Hearing Transcript [Tr.] at 13-14; State’s Exhibit [St. Ex.] 2 at 2, 20).

Mr. Pickett also testified about his employment history. He stated that, after leaving Ohio State, he had worked at a bank for a year. He stated that he had then moved to Colorado, where he had worked as a white-water raft guide and at a ski resort. In 1991, Mr. Pickett moved back to Ohio to continue his education. (Tr. at 56; St. Ex. 2 at 11).

Mr. Pickett stated that, in 1993, he had begun working as a paramedic for Fayette County, and that he had worked there until 2001, when he had gone back to school to become a physician assistant. He further stated that, from 1996 or 1997 through May 2001, he had also worked as a paramedic for Madison County. He advised that he had also worked in Union County Memorial Hospital as a paramedic technician until returning to school in 2001. (Tr. at 14).

Mr. Pickett testified he is currently working part-time on a contract basis for Ohio Live Link, teaching basic trauma life support, but that the jobs are “few and far between.” (Tr. at 13; St. Ex. 6 at 1-2).

2. On March 29, 2004, Mr. Pickett submitted to the Board an application for a certificate to practice as a physician assistant in Ohio. His application is still pending. (St. Ex. 2).
3. Mr. Pickett admitted that he is an alcoholic who had begun drinking when he was 14 or 16 years old. He further admitted that he has had seven convictions for driving under the influence of alcohol. Two of those convictions, in the years 1986 and 1989, were in Colorado, and the remaining five occurred in Ohio, in the years 1978, 1981, 1983, 1993, and 2000. (Tr. at 15, 19; St. Ex. 2 at 11; St. Ex. 4).

In his application for a certificate to practice as a physician assistant, Mr. Pickett provided the following information about his convictions:

1978 – ? OSU campus – 3 days jail

1981 – ? OSU campus – 3 days Maryhaven¹ – no further counseling

1983 – ? OSU campus – 3 days Maryhaven – no further counseling

* * *

1986 – COLORADO – Vail (?) Old dirt road in the mountains
No jail time, no counseling, just a fine.

1989 – COLORADO – Winter Park – asleep in a parking lot.
– 2 weeks in jail, group counseling. Diagnosed as a binge drinker

* * *

1993 – Celebrating with EMT-Medic class on receiving Ohio EMT
Registration – asleep in parking lot of White Castle

- 3 days Maryhaven, required approx. 6 counseling sessions afterwards.
- I believe it was Dublin Counseling Center.
- Open AA meetings recommended.

2000 – Feb 21st – Dinner with Brothers at Knotty Pine in Grandview,
discussing our mother's estate – 12:30am on Grandview Ave.

- 3 days Maryhaven
- Slight or no indication of Substance Abuse
- No further counseling recommended
- Counseling recommended if further related problems develop
- Other recommendations – Open AA meetings

(St. Ex. 2 at 11).

The State provided documentation of Mr. Pickett's two most recent convictions. On July 23, 1993, Mr. Pickett was cited for driving with a blood alcohol level of .124. Mr. Pickett pleaded guilty to Operating a Motor Vehicle Under the Influence [OMVI], and was sentenced 180 days in jail, with 177 days suspended, and three years of probation. Mr. Pickett was also fined \$300, and his driver's license was suspended for three years.

¹ Mr. Pickett testified that Maryhaven is an alcohol treatment facility.

The court also ordered Mr. Pickett to attend “Maryhaven: Exploring Sober Alternatives” and aftercare if recommended. (St. Ex. 4 at 2, 4, 6).

On February 21, 2000, Mr. Pickett was again cited for OMVI. Mr. Pickett pleaded no contest to the charge and was found guilty. The court sentenced Mr. Pickett to three days of inpatient treatment, fined him \$300, and ordered a 180-day driver’s license suspension. (St. Ex. 4 at 10, 12).

Mr. Pickett testified that, after his 1993 conviction, he had attended two counseling sessions, and that he may have attended AA meetings but that he cannot remember. He further testified that he had not received counseling after the 2000 conviction, because Maryhaven had not recommended any follow-up care. He advised that “open” AA meetings had been recommended, but that he had not attended any. (Tr. at 21, 23).

4. On June 24, 2004, because of Mr. Pickett’s history of drunk-driving convictions, the Board ordered Mr. Pickett to submit to a three-day examination to determine whether he was 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.” The examination was scheduled for July 19 through July 21, 2004, at Glenbeigh Hospital, a Board-approved treatment provider. Mr. Pickett testified that he had complied with the order, and submitted to the three-day examination as scheduled. (Tr. at 17; St. Ex. 3, 6).

During Mr. Pickett’s three-day evaluation, a “Biopsychosocial Assessment” of Mr. Pickett was completed by Kathleen Schmidt, M.S., L.S.W., a counselor at Glenbeigh. Ms. Schmidt diagnosed Mr. Pickett as chemically dependent, with alcohol being his drug of choice, and recommended inpatient treatment. (Tr. at 25, 34; St. Ex. 6). Ms. Schmidt noted the following problems to be addressed during Mr. Pickett’s inpatient treatment:

[Mr. Pickett] lacks an understanding of the disease concept of chemical dependency; He is in denial of the severity and consequences of his use; He is not recognizing alcohol use as a problem; He does not recognize self defeating behaviors and attitudes that support denial and relapse. [He] seems interested in making a commitment to a sober lifestyle.

(St. Ex. 6 at 3-4).

Ms. Schmidt made the following recommendations for Mr. Pickett:

Attendance of Continuing Care groups; attendance of AA/NA meetings;
selection of a home group sponsor; participation in the social/recreational

activities offered by the Twelve Step recovering community;
psychiatric/physician follow-up as recommended.

(St. Ex. 6 at 4).

5. Chester Joseph Prusinski, D.O., testified on behalf of the State as an expert in substance abuse. He stated that he had attained his medical degree from Kansas City College of Osteopathy in 1964, and that he has been licensed to practice medicine in Ohio for 40 years. He further stated that he had been in general practice for approximately 34 years in Northeast Ohio. He advised that he has worked at Glenbeigh Hospital for about 13 years. He testified that he is certified as a specialist in addiction by the American Society of Addiction Medicine and that he had previously testified as an expert witness about four to six times. Dr. Prusinski estimated that he has evaluated, treated, or diagnosed thousands of substance-abuse patients throughout his career. (Tr. at 29-31).

Dr. Prusinski testified that he is currently the Medical Director at Glenbeigh Hospital, and that he is familiar with the documentation of the three-day evaluation of Mr. Pickett that had occurred at Glenbeigh, although he had not conducted the evaluation himself. (Tr. at 29-30, 34-35).

Dr. Prusinski informed the Board in a letter dated July 21, 2004, that Mr. Pickett's alcohol dependence rendered him unqualified "to perform duties as a physician's assistant in accordance to acceptable, prevailing standards of care, because of habitual and excessive abuse that has impaired his ability to practice." In his July 21, 2004, letter, Dr. Prusinski recommended that Mr. Pickett complete 28 days of inpatient treatment at a Board-approved treatment facility. (St. Ex. 5).

Dr. Prusinski testified that, after a delay, Mr. Pickett had completed the recommended inpatient treatment at Glenbeigh Hospital, but that he has not been cured, because there is no cure for chemical dependency. He advised that "a total change in lifestyle" is required to adequately address chemical dependency, including participation in AA and changes in social habits. (Tr. at 38-40).

Dr. Prusinski was asked whether he had an opinion, based on a reasonable degree of medical certainty, about whether Mr. Pickett is impaired in his ability to practice as a physician assistant according to acceptable and prevailing standards of care. Dr. Prusinski responded:

I have to say that unless he has demonstrated the ability to stay sober and abstain from alcohol and avoid any further consequences as a result, he is not qualified to operate in that capacity.

(Tr. at 41).

Dr. Prusinski advised that he believes that Mr. Pickett must show a period of documented sobriety, participate in ongoing recovery efforts, change his lifestyle, and submit to drug screening in order to become capable of practicing unimpaired by his alcohol dependence. (Tr. at 42-44).

6. Mr. Pickett testified that, although his drinking had caused him legal and financial problems, he had not previously believed that a “weekend drunk” could be considered an alcoholic. However he testified that, in treatment, he had accepted that he is indeed an alcoholic. (Tr. at 16, 23-26, 55, 60, 64). He testified:

I was evaluated up in Glenbeigh for three days in July, and when they told me that I had a chemical dependency problem and that I was an alcoholic, I had a hard time with that.

However, I had a month to think about it and move to—I had to move out of my apartment and then go up to Cleveland to begin the 28-day treatment.

And it was two days into that—or I'm sorry, about two weeks into that treatment, that it really hit home that I did have a problem, that I am an alcoholic, that I have a disease that is not curable.

And since that time I have completed the 28-day treatment and have started my AA meetings, my caduceus meetings and my after-care. I still have to get a monitor for urine screens.

I believe now, more than ever, that I—that I'm—I'm surrendering to this program, and without the grace of God, I wouldn't be here to begin with. So I'm looking forward to many more sober days.

(Tr. at 55-56).

Mr. Pickett testified that he had entered the 28-day treatment program at Glenbeigh on September 1, 2004. He explained that he had not immediately entered the program after his evaluation because he had needed to attend to personal affairs before entering the program, such as moving out of his apartment. He stated that the delay had not been due to his resisting the treatment recommendation. (Tr. at 17, 57-58).

7. Mr. Pickett was discharged from Glenbeigh on September 29, 2004. A Glenbeigh counselor noted in Mr. Pickett's discharge plan that Mr. Pickett “admits alcohol dependency, asks for help and is following directions for recovery.” No psychiatric or physician follow-up was recommended. The discharge plan requires Mr. Pickett to attend

aftercare treatment, two AA meetings per week, and one Caduceus meeting per week. Mr. Pickett submitted a “meeting attendance log” demonstrating that, from September 30, 2004, through October 20, 2004, Mr. Pickett had complied with those recommendations. (Respondent’s Exhibits [Resp. Exs.] C, E).

Mr. Pickett presented evidence that, on October 18, 2004, he had attended his first aftercare counseling session and signed a “continuing care contract.” The contract requires Mr. Pickett to abstain from all mood-altering drugs, including alcohol; to attend weekly counseling sessions; to abide by any consent agreement with the Board or monitoring contract with the Ohio Physicians Effectiveness Program [OPEP]; to attend three 12-step meetings each week; and to attend one Caduceus meeting each week. (Tr. at 18; Resp. Exs. D, F).

At hearing, Mr. Pickett testified that he had signed a contract with OPEP, but that it had not yet been finalized because he had been unable to find a monitor. After the hearing, Mr. Pickett submitted a fully executed five-year OPEP contract, effective November 15, 2004, which requires random weekly urine screens. (Tr. at 62-63, 70; Resp. Ex. G).

8. Mr. Pickett testified that he had been a beer drinker who would also drink “a shot here or there.” He further testified that he had last been intoxicated in November 2003, but that he had taken his last drink on July 8, 2004. He advised that his efforts to stay sober and to change his lifestyle have included: “working the [AA] program,” attending aftercare and Caduceus meetings, socializing with fellow AA members, “put[ting] [his] higher power back in [his] life,” staying out of bars, exercising, and improving his diet. (Tr. at 15-18, 61, 63-64).

Mr. Pickett conceded that he is not ready yet to practice as a physician assistant. He testified, “I’m early in my disease; I’m learning. But sometime down the road I’ll be ready.” Mr. Pickett stated that he is committed to his sobriety, whether he is licensed as a physician assistant or not. He further stated that he is willing to abide by any monitoring conditions imposed by the Board. (Tr. at 26-27, 60-62).

9. Mr. Pickett submitted certified copies of his clinical evaluations during his physician assistant training at Cuyahoga Community College. Mr. Pickett received no “unsatisfactory” marks, and received many “above average” or “excellent” ratings. (Resp. Ex. A).

Mr. Pickett also submitted a support letter written by Randy L. Orsborn, PA-C, of Knox Cardiology Associates. Mr. Orsborn advised that he had known Mr. Pickett for 15 years, and that he had recently worked with Mr. Pickett because Mr. Pickett had completed five weeks of physician-assistant training at Knox Cardiology Associates. Mr. Orsborn wrote that, during his training, Mr. Pickett had been respectful and caring, and that he had never appeared intoxicated or “hung over.” (Resp. Ex. B).

FINDINGS OF FACT

On or about March 29, 2004, Thomas R. Pickett, P.A., submitted an "Application for Physician Assistant Registration Number" to the Board. The application is still pending.

By letter dated June 24, 2004, the Board ordered Mr. Pickett to submit to a three-day evaluation at Glenbeigh Hospital, a Board-approved treatment provider in Rock Creek, Ohio, on July 19, 20, and 21, 2004. After completing the evaluation, the treatment team diagnosed Mr. Pickett as chemically dependent, with alcohol as his drug of choice, and recommended the following: 28 days of inpatient treatment at a facility acceptable to the Board; attendance at Continuing Care groups; attendance at AA/NA meetings; selection of a home group sponsor; participation in the social and recreational activities offered by the Twelve Step recovering community; and psychiatric and physician follow-up as recommended.

CONCLUSIONS OF LAW

The acts, conduct, and/or omissions of Thomas R. Pickett, P.A., individually and/or collectively, constitute "[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.

* * * * *

Mr. Pickett has a long history of drunk driving convictions and alcohol dependence. However, he had never been properly treated for his alcoholism before the Board's intervention. His newfound understanding that he is an alcoholic and his dedication to recovery appear sincere. Therefore, he should be allowed licensure with strict monitoring conditions, after a period of demonstrated sobriety.

PROPOSED ORDER

It is hereby ORDERED that:

- A The application of Thomas R. Pickett, P.A., for a certificate to practice as a physician assistant in the State of Ohio is GRANTED, provided that he otherwise meets all statutory and regulatory requirements. Immediately upon issuance, such certificate shall be SUSPENDED for an indefinite period of time, but not less than one hundred and eighty days.

B. **INTERIM MONITORING:** During the period that Mr. Pickett's certificate to practice as a physician assistant in Ohio is suspended, Mr. Pickett shall comply with the following terms, conditions, and limitations:

1. **Obey the Law:** Mr. Pickett shall obey all federal, state, and local laws, and all rules governing the practice of a physician assistant in Ohio.
2. **Personal Appearances:** Mr. Pickett 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 Order. 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.
3. **Quarterly Declarations:** Mr. Pickett 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 this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
4. **Abstention from Drugs:** Mr. Pickett shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Mr. Pickett's history of chemical dependency.
5. **Abstention from Alcohol:** Mr. Pickett shall abstain completely from the use of alcohol.
6. **Comply with the Terms of the Aftercare Contract:** Mr. Pickett shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided that, where terms of the aftercare contract conflict with terms of this Order, the terms of this Order shall control.
7. **Drug & Alcohol Screens; Supervising Physician:** Mr. Pickett shall submit to random urine screenings for drugs and/or alcohol on a weekly basis or as otherwise directed by the Board. Mr. Pickett shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Mr. Pickett shall submit to the Board for its prior approval the name and

curriculum vitae of a supervising physician to whom Mr. Pickett shall submit the required specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Mr. Pickett. Mr. Pickett and the supervising physician shall ensure 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, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Mr. Pickett shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

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

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

8. **Submission of Blood or Urine Specimens upon Request:** Mr. Pickett shall submit blood and urine specimens for analysis without prior notice at such times as the Board may request, at Mr. Pickett's expense.
9. **Rehabilitation Program:** Mr. Pickett shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week, unless otherwise determined by the Board. Substitution of any other specific program must receive prior Board approval. Mr. Pickett shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Mr. Pickett's quarterly declarations.
10. **Continued Compliance with a Contract with an Impaired Physicians Committee:** Mr. Pickett shall maintain continued compliance with the terms of the

contract entered into with OPEP, or with another impaired physicians committee, approved by the Board, to assure continuous assistance in recovery and/or aftercare.

C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Mr. Pickett's certificate to practice as a physician assistant until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Mr. Pickett shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions:** Mr. Pickett shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.
3. **Demonstration of Ability to Resume Practice:** Mr. Pickett 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:
 - a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Mr. Pickett has successfully completed any required inpatient treatment.
 - b. 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.
 - c. Evidence of continuing full compliance with this Order.
 - d. Two written reports indicating that Mr. Pickett's ability to practice has been evaluated for chemical dependency and/or impairment and that he has been found capable of practicing according to acceptable and prevailing standards of care. The evaluations shall have been performed by individuals or providers approved by the Board for making such evaluations. Moreover, the evaluations shall have been performed within sixty days prior to Mr. Pickett's application for reinstatement or restoration. The reports of evaluation shall describe with particularity the bases for the determination that Mr. Pickett has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his practice.

- D. **PROBATION:** Upon reinstatement or restoration, Mr. Pickett's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Mr. Pickett shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
 2. **Tolling of Probationary Period While Out of State:** Mr. Pickett shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
 3. **Noncompliance Will Not Reduce Probationary Period:** In the event Mr. Pickett is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Pickett's certificate will be fully restored.
- F. **VIOLATION OF THE TERMS OF THIS ORDER:** If Mr. Pickett 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.
- G. **RELEASES:** Mr. Pickett shall provide continuing 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. Pickett's chemical dependency and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. 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.

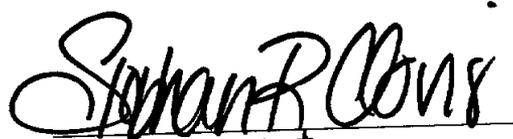
Mr. Pickett shall also provide the Board written consent permitting any treatment provider from whom Mr. Pickett obtains treatment to notify the Board in the event he fails to agree

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 Order.

H. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Mr. Pickett shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Mr. Pickett shall provide a copy of this Order 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.

I. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Mr. Pickett shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he/she currently holds any professional license. Mr. Pickett shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Mr. Pickett shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board.

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



Siobhan R. Clovis, Esq.
Hearing Examiner



State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF JANUARY 12, 2005

REPORTS AND RECOMMENDATIONS

Dr. Davidson announced that the Board would now consider the findings and orders appearing on the Board's agenda. She asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Ghassan Haj Hamed, M.D.; Valerie Ann McLin, M.D.; Daniel Howard Brumfield, M.D.; Jeffrey James Fierra, M.D.; Steven Franklin Greer, M.D.; Felicia K. Howard-McGrady, M.D.; Willie L. Josey, M.D.; Thomas R. Pickett, M.D.; and John Alexander Tripoulas, M.D. A roll call was taken:

ROLL CALL:	Dr. Egner	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

Dr. Davidson 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. Egner	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

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

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

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

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Dr. Garg joined the meeting at this time.

.....
Dr. Davidson asked Dr. Garg whether he had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the Reports and Recommendations on this month's agenda, and whether he 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. Dr. Garg responded, "yes," to both questions.

.....
Mr. Dilling asked Mr. Browning whether he had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the Reports and Recommendations on this month's agenda, and whether he 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. Mr. Browning responded, "yes," to both questions.

.....
Dr. Talmage left the meeting during the previous discussion.

.....
Mr. Albert and Dr. Garg left the meeting at this time.

THOMAS R. PICKETT, P.A.

.....

DR. KUMAR MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF THOMAS R. PICKETT, P.A. DR. ROBBINS SECONDED THE MOTION.

.....

Dr. Garg returned to the meeting at this time.

A vote was taken on Mr. Browning's motion to approve and confirm:

Vote:	Dr. Egner	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- nay
	Dr. Davidson	- aye

The motion carried.



State Medical Board of Ohio

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August 11, 2004

Thomas R. Pickett, P.A.
2710 Montcalm Road
Columbus, Ohio 43221

Dear Mr. Pickett:

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 of registration as a physician assistant, refuse to issue or reinstate your certificate, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about March 29, 2004, you submitted an "Application for Physician Assistant Registration Number" to the Board. That application is pending currently.

By letter dated June 24, 2004, you were ordered by the Board to submit to a three-day evaluation at Glenbeigh Hospital, a Board approved treatment provider in Rock Creek, Ohio, on July 19, 20 and 21, 2004. After completing the evaluation, the treatment team diagnosed you as chemically dependent with alcohol as your drug of choice and recommended residential treatment of 28 days duration at a facility acceptable to the Board, attendance of Continuing Care groups, attendance of AA/NA meetings, selection of a home group sponsor, participation in the social and recreational activities offered by the Twelve Step recovering community, and psychiatric and physician follow-up as recommended.

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

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

Mailed 8/12/04

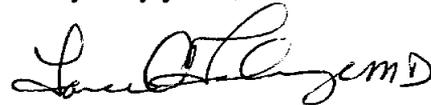
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at 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 of registration 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 a certificate of registration as a physician assistant to an applicant, revokes an individual's certificate of registration, refuses to issue a certificate of registration, or refuses to reinstate an individual's certificate of registration, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate of registration as a physician assistant and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT/blt
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5144 3156
RETURN RECEIPT REQUESTED