

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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December 12, 2007

Ms. Mary Ellen Ratcliff
30045 Claypool Hollow Road
McArthur, OH 45651

Dear Ms. Ratcliff:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on December 12, 2007, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, 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 setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of an original Notice of Appeal with the State Medical Board of Ohio and a copy of the Notice of Appeal with 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 MD
Lance A. Talmage, M.D. *RW*
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3931 8317 8851
RETURN RECEIPT REQUESTED

Mailed 1-04-08

To protect and enhance the health and safety of the public through effective medical regulation



CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on December 12, 2007, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, 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 Mary Ellen Ratcliff, 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 MD
Lance A. Talmage, M.D. *rw*
Secretary

(SEAL)

December 12, 2007
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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*

MARY ELLEN RATCLIFF

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ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on December 12, 2007.

Upon the Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the 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.

It is hereby ORDERED that:

- A. **APPLICATION DENIED:** The application of **Mary Ellen Ratcliff** for a certificate to practice massage therapy in Ohio is DENIED.
- B. **CONDITIONS PLACED UPON ANY FUTURE APPLICATION:** Ms. Ratcliff shall not apply in the future for a certificate to practice massage therapy in the State of Ohio, or for any other certificate issued by the Board, until all of the following conditions are met.
 1. **Application:** Ms. Ratcliff shall submit an application, accompanied by appropriate fees.
 2. **Demonstration of Ability to Practice:** Ms. Ratcliff shall demonstrate to the satisfaction of the Board that she can practice in compliance with acceptable and prevailing standards of care under the provisions of her 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 Ms. Ratcliff has successfully completed any required inpatient treatment, including at least twenty-eight days of inpatient or residential treatment for chemical dependence, as set forth in Rules 4731-16-02(B)(4) and 4731-16-08(A)(13) of the Administrative Code, completed consecutively.
- 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. Two written reports indicating that Ms. Ratcliff's ability to practice has been assessed and that she 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 Ms. Ratcliff. Prior to the assessments, Ms. Ratcliff shall provide the evaluators with copies of patient records from any evaluations and/or treatment that she has received, and a copy of this Order. The reports from the evaluators shall include any recommendations for treatment, monitoring, or supervision of Ms. Ratcliff, and any conditions, restrictions, or limitations that should be imposed on Ms. Ratcliff'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.

C. PROBATIONARY CONDITIONS TO BE PLACED UPON ANY FUTURE CERTIFICATE GRANTED BY THE BOARD: In the event that the Board should grant a future application by Ms. Ratcliff for a certificate to practice massage therapy in the State of Ohio, or for any other certificate issued by the Board, that certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

1. **Obey the Law:** Ms. Ratcliff shall obey all federal, state, and local laws, and all rules governing the practice of massage therapy or other licensed practice in Ohio.
2. **Personal Appearances:** Ms. Ratcliff shall appear in person for an interview before the full Board or its designated representative during the

third month following the month during which the Board approved Ms. Ratcliff's application for a massage therapy certificate or other certificate. 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:** Ms. Ratcliff 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 during which the Board approved Ms. Ratcliff's application for a massage-therapy certificate or other certificate. 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:** Ms. Ratcliff shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to her by another so authorized by law who has full knowledge of Ms. Ratcliff's history of impairment.
5. **Abstention from Alcohol:** Ms. Ratcliff shall abstain completely from the use of alcohol.
6. **Comply with the Terms of Treatment and Aftercare Contract:** Ms. Ratcliff shall maintain continued compliance with the terms of the treatment and aftercare contracts entered into with her treatment provider, provided that, where terms of the treatment and aftercare contract conflict with terms of this Order, the terms of this Order shall control.
7. **Drug & Alcohol Screens; Supervising Physician:** Ms. Ratcliff shall submit to random urine screenings for drugs and/or alcohol on a weekly basis or as otherwise directed by the Board. Ms. Ratcliff 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 date upon which a future application of Ms. Ratcliff for a massage therapy certificate or other certificate is approved by the Board, or as otherwise determined by the Board, Ms. Ratcliff shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Ms. Ratcliff 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 Ms.

Ratcliff. Ms. Ratcliff 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.

Ms. Ratcliff 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, Ms. Ratcliff must immediately notify the Board in writing and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Ms. Ratcliff 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 Ms. Ratcliff's quarterly declaration. It is Ms. Ratcliff's responsibility to ensure that reports are timely submitted.

8. **Provision of Blood or Urine for Screening without Prior Notice:** Ms. Ratcliff shall submit blood and/or urine specimens for analysis without prior notice at such times as the Board may request, at Ms. Ratcliff's expense.
9. **Rehabilitation Program:** Ms. Ratcliff shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A. or C.A., no less than three times per week, unless otherwise determined by the Board. Substitution of any other specific program must receive prior Board approval. Ms. Ratcliff 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 Ms. Ratcliff's quarterly declarations.
10. **Releases:** Ms. Ratcliff 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 Ms. Ratcliff's impairment and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after Board approval of Ms. Ratcliff's application for a massage therapy certificate or other certificate. 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.

Ms. Ratcliff shall also provide the Board written consent permitting any treatment provider from whom Ms. Ratcliff obtains treatment to notify the Board in the event she 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.

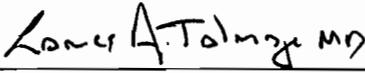
11. **Absence from Ohio:** Ms. Ratcliff shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising 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.
12. **Tolling of Probationary Period while Out of Compliance:** In the event Ms. Ratcliff 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.
13. **Required Reporting to Employers and Hospitals:** Within thirty days of the date upon which a future application of Ms. Ratcliff for a massage therapy certificate or other certificate is approved by the Board, or as otherwise determined by the Board, Ms. Ratcliff shall provide a copy of this Order to all employers or entities with which she is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where she has privileges or appointments. Further, Ms. Ratcliff shall provide a copy of this Order to all employers or entities with which she contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where she applies for or obtains privileges or appointments. This requirement shall continue until Ms. Ratcliff receives from the Board written notification of her successful completion of probation.
14. **Required Reporting To Other State Licensing Authorities:** Within thirty days of the date upon which a future application of Ms. Ratcliff for a massage therapy certificate or other certificate is approved by the Board, or

as otherwise determined by the Board, Ms. Ratcliff 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 she currently holds any professional license. Ms. Ratcliff 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 she applies for any professional license or reinstatement or restoration of any professional license. Further, Ms. Ratcliff 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 requirement shall continue until Ms. Ratcliff receives from the Board written notification of her successful completion of probation.

15. **Termination Of Probation:** Upon successful completion of probation, as evidenced by a written release from the Board, Ms. Ratcliff's certificate will be fully restored.

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

(SEAL)



Lance A. Talmage, M.D. RW
Secretary

December 12, 2007

Date

2007 NOV 16 A 10:47

**REPORT AND RECOMMENDATION
IN THE MATTER OF MARY ELLEN RATCLIFF**

The Matter of Mary Ellen Ratcliff was heard by R. Gregory Porter, Hearing Examiner for the State Medical Board of Ohio, on November 2, 2007.

INTRODUCTION

Basis for Hearing

By letter dated September 12, 2007, the State Medical Board of Ohio [Board] notified Mary Ellen Ratcliff that it had proposed to determine whether or not to refuse to register or reinstate her certificate to practice massage therapy in Ohio. The Board based its proposed action on her failure to submit to an impairment examination on July 9, 2007, as ordered by the Board, and her failure to notify the Board of any circumstances beyond her control preventing her from submitting to the impairment examination. The Board alleged that, as a result, a legal presumption has been established pursuant to Section 4731.22(B)(26), Ohio Revised Code, that she has admitted the factual and legal allegations set forth by the Board in a May 3, 2007, letter ordering her to submit to the examination, thus demonstrating impairment of her 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.

In addition, the Board alleged that Ms. Ratcliff's conduct constituted a failure to cooperate in a Board investigation, and was therefore a violation of Section 4731.33(B)(34), Ohio Revised Code.

Accordingly, the Board advised Ms. Ratcliff of her right to request a hearing to determine whether her failure to submit to the July 9, 2007, impairment examination had been due to circumstances beyond her control that had prevented her from submitting to the examination. The Board received Ms. Ratcliff's written hearing request on October 11, 2007. (State's Exhibits 1A, 1C)

Appearances

On behalf of the State of Ohio: Marc Dann, Attorney General, by Barbara J. Pfeiffer, Assistant Attorney General.

On behalf of the Respondent: Ms. Ratcliff appeared on her own behalf.

EVIDENCE EXAMINED

Testimony Heard

Mary Ellen Ratcliff

Exhibits Examined

State's Exhibits 1A through 1H: Procedural exhibits.

State's Exhibit 2: Certified copy of Ms. Ratcliff's application to practice massage therapy in Ohio.

State's Exhibit 3: September 7, 2007, Affidavit of Penny Grubb, Chief of Licensure for the Board.

State's Exhibit 4: September 7, 2007, Affidavit of Lynn Zondorak, Enforcement Attorney for the Board, with the following attachments: copy of the May 3, 2007, letter to Ms. Ratcliff from the Board ordering Ms. Ratcliff to a 72-hour examination at Glenbeigh Hospital in Rock Creek, Ohio; scanned image of a certified mail receipt; copies of Ms. Zondorak's memoranda of telephone conversations with or relating to Ms. Ratcliff; and copy of August 2, 2007, letter to Ms. Zondorak from Kathryn Chambers, Intake Coordinator for Glenbeigh Hospital.

SUMMARY OF THE EVIDENCE

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

1. On or about August 15, 2006, Mary Ellen Ratcliff submitted to the Board an application for a certificate to practice massage therapy in Ohio, and requested to take the December 2006, Massage Therapy Examination. Ms. Ratcliff indicated in her application that she had attended Hocking College of Massage Therapy in Nelsonville, Ohio, and had received her diploma in April 2006. Her application further states that she was born in May 1986. (St. Ex. 2 at 1-3, 23)

In her application, Ms. Ratcliff answered "Yes" to question 11 of the questionnaire, which asked if she had ever been convicted or found guilty of any law other than a minor traffic violation. Ms. Ratcliff submitted a supplemental response to Question 11, which disclosed that she had been convicted of four misdemeanor violations for offenses that occurred on four separate occasions. (St. Ex. 2 at 7, 10-16)

A January 12, 2007, letter to Ms. Ratcliff from the Board indicates that she had passed the December 2006, Massage Therapy Examination. The letter states that she had obtained scores of 92 on both the Basic Science and Limited Branch portions of the examination. (St. Ex. 2 at 21)

2. Ms. Ratcliff testified that she currently holds two jobs. She is a server at the Old Canal Smoke House in Chillicothe, Ohio, and she is a bartender at a Buffalo Wild Wings. (Hearing Transcript [Tr.] at 9)
3. By letter dated May 3, 2007, the Board notified Ms. Ratcliff that it had reason to believe that she was in violation of Section 4731.22(B)(26), Ohio Revised Code, due to “[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.” Further, the Board ordered Ms. Ratcliff to submit to a 72-hour inpatient examination beginning June 4, 2007, at Glenbeigh Hospital in Rock Creek, Ohio. (St. Ex. 4 at 3-5)

In its letter, the Board advised Ms. Ratcliff of the following:

- (1) In or around August 2006, you submitted to the Board an Application for Certificate to Practice a Limited Branch, Massage Therapy [Application] and you answered affirmatively to Question 11 in the Application, which asks whether you have ever been convicted of or found guilty of a violation of any law, other than a minor traffic violation. You submitted a supplemental response to Question 11, which, along with certified court documents, disclosed the following:
 - (a) On or about January 6, 2006, following an accident during which you lost control of your car and hit another vehicle, you were arrested and charged with Operating a Motor Vehicle While Under the Influence, in violation of Section 4511.19(A)(1)(a), Ohio Revised Code, and Failure to Control, in violation of Section 331.34, Revised Ordinances of the City of Chillicothe, Ohio. The citation issued to you indicates that you refused to submit to a breathalyzer test. The Impounded Vehicle Log indicates that an empty bottle of alcohol was found in your car. On or about April 25, 2006, in the Chillicothe Municipal Court, Ross County, Ohio, you pled guilty to and were found guilty of the reduced charge of Having Physical Control of a Vehicle While Under the Influence, in violation of Section 4511.194(B), Ohio Revised Code. You were sentenced to one year of community control sanctions, which included the requirements that you be evaluated for substance abuse services; that you submit to random alcohol and/or drug testing, as requested; and that you not consume alcohol.

- (b) On or about January 1, 2006, officers from the Chillicothe Police Department were dispatched to the apartment complex where you were residing, in response to a phone call to police. According to the police incident report, you entered your neighbor's apartment without permission, and a fight broke out between your neighbor and you. While being questioned by the officer the following day, you admitted that you were intoxicated at the time of the incident involving your neighbor. Upon conclusion of the interview, you were charged with Criminal Trespass, in violation of Section 541.05, Revised Ordinances of the City of Chillicothe, Ohio; Criminal Mischief, in violation of Section 541.04, Revised Ordinances of the City of Chillicothe, Ohio; and Disorderly Conduct, in violation of Section 509.03(A)(1), Revised Ordinances of the City of Chillicothe, Ohio. On or about February 28, 2006, in the Chillicothe Municipal Court, Ross County, Ohio, you were found guilty of Criminal Trespass, in violation of Section 541.05, Revised Ordinances of the City of Chillicothe, Ohio. Other charges were dismissed.
 - (c) On or about August 17, 2004, you were charged with Possession of Drugs, in violation of Sections 2925.11(A) and [2925.11(C)(2)(a)], Ohio Revised Code, and Drug Paraphernalia, in violation of Section 2925.14(C)(1), Ohio Revised Code. These charges were dismissed and then re-filed on or about December 21, 2004. The citations issued to you by the police officer indicate that you were in possession of Clonazepam, a Schedule IV controlled substance, and marijuana. On or about February 3, 2005, in Chillicothe Municipal Court, Ross County, Ohio, you pled guilty to and were found guilty of Drug Paraphernalia, in violation of Section 2925.14(C)(1), Ohio Revised Code. Other charges were dismissed.
 - (d) On or about July 23, 2004, you were charged with Purchase of Beer, in violation of Section 529.021, Codified Ordinances of the City of Jackson, Ohio. On or about July 27, 2004, in the Jackson County Municipal Court, you pled guilty to and were found guilty of Purchase of Beer, in violation of Section 529.021, Codified Ordinances of the City of Jackson, Ohio.
- (2) In addition to the aforementioned information disclosed with your application, on or about January 10, 2004, you were charged with Drug Abuse – Controlled Substance Possession or Use, in violation of Section 513.03 of the Codified Ordinances of the City of Jackson, Ohio, and with a violation of Curfew Hours, in violation of Section 509.12, Codified Ordinances of the City of Jackson, Ohio. The Jackson Police Department Arrest Report indicates that a field sobriety test was administered and the officer determined that you were

under the influence. The Arrest Report further indicates that a K-9 unit searched the vehicle and two marijuana roaches and a stem were found in the ash tray of your vehicle.

(St. Ex. 4 at 3-5)

Finally, the Board advised Ms. Ratcliff that she would be responsible for the cost of the examination, and ordered her to bring with her to the examination a certified check or money order in the amount of \$1,800.00 made payable to Glenbeigh Hospital. (St. Ex. 4 at 5)

4. The Board's May 3, 2007, letter was received and signed for by Ms. Ratcliff's mother on May 5, 2007. (St. Ex. 4; Tr. at 11)
5. In a September 7, 2007, Affidavit, Lynn Zondorak stated that she is an Enforcement Attorney for the Board, and that she had coordinated the investigation of Ms. Ratcliff that culminated in the Board's letter ordering Ms. Ratcliff to an impairment examination. Ms. Zondorak further stated that she had been contacted by Ms. Ratcliff on May 10, 2007, concerning rescheduling the examination to a later date because Ms. Ratcliff had moved out of state. Moreover, Ms. Zondorak stated that Ms. Ratcliff's request was approved and that a new date of July 9, 2007, was confirmed with Ms. Ratcliff and Glenbeigh Hospital. However, Ms. Zondorak stated that, on or around July 10, 2007, she had received a telephone call from Kathy Chambers, Intake Coordinator for Glenbeigh Hospital, who informed Ms. Zondorak that Ms. Ratcliff had failed to appear for her examination. Finally, by letter dated August 2, 2007, Ms. Chambers advised Ms. Zondorak in writing of Ms. Ratcliff's failure to appear for her Board-ordered examination. (St. Ex. 4 at 1-2, 9)
6. Ms. Ratcliff testified that she had understood the requirements of the Board's May 3, 2007, letter, and that Ms. Zondorak had advised her of the rescheduled July 9, 2007, examination well in advance of that date. Nevertheless, Ms. Ratcliff acknowledged that she did not appear for the examination. Moreover, Ms. Ratcliff acknowledged that she had not spoken with Ms. Zondorak or had any contact with the Board between the time Ms. Zondorak advised her of the rescheduled examination date through and until she received the Board's September 12, 2007, notice of opportunity for hearing. (Tr. at 12-14)

Ms. Ratcliff testified that she had intended to appear for the Board-ordered examination, but that she had not had the money to pay for the examination. Ms. Ratcliff explained that her mother had agreed to give her \$1,800.00 for the examination; however, approximately the second week of June, Ms. Ratcliff learned that her stepfather had lost his job.

Ms. Ratcliff further testified: "With both my parents working, I think they could afford to lend me the money to go. Unfortunately, with him going on unemployment, I didn't want to take that from them." Ms. Ratcliff stated that her mother had said that she would still be willing to give her the money. Nevertheless, Ms. Ratcliff stated, "I know they couldn't

have afforded it.” Ms. Ratcliff testified that, accordingly, she did not have enough funds to go to the examination. (Tr. at 14-16)

When asked why she had not contacted Ms. Zondorak or anyone from the Board concerning her situation, Ms. Ratcliff replied, “I kind of just gave up.” She added that she had thought she should pursue another career. (Tr. at 16)

Ms. Ratcliff testified that, given an opportunity to do so, she would welcome an opportunity in the future to go to an impairment examination if she could go to another less expensive program or make installment payments on the fee. However, with regard to her reasons for not attending the scheduled examination, Ms. Ratcliff stated, “[T]here’s nothing else to say, that I just didn’t have the money to go; and I made the irresponsible action of not contacting anyone and letting them know my situation.” (Tr. at 22-24)

7. Ms. Ratcliff testified that she would truly like to become a massage therapist, but that she currently lacks enough money to pay for an examination or for treatment, should treatment be necessary. (Tr. at 24-25)
8. Ms. Ratcliff acknowledged that her consumption of alcohol has caused legal problems for her in the past. Ms. Ratcliff further testified that she continues to drink alcohol, at least on occasion, when she goes out with friends. (Tr. at 26-27)

FINDINGS OF FACT

1. On or about August 15, 2006, Mary Ellen Ratcliff caused to be submitted to the Board an Application for Certificate to Practice a Limited Branch, Massage Therapy, [Application] which remains pending. By letter dated May 3, 2007, the Board notified Ms. Ratcliff of its determination that it had reason to believe that she was in violation of Section 4731.22(B)(26), Ohio Revised Code, and ordered her to undergo a 72-hour inpatient impairment examination. The Board’s determination was based upon one or more of the reasons outlined in such letter, which included the following:
 - (a) Ms. Ratcliff answered affirmatively to Question 11 in the Application, which asks whether she had ever been convicted of or found guilty of a violation of any law, other than a minor traffic violation. Ms. Ratcliff submitted a supplemental response to Question 11, which, along with certified court documents, disclosed the following:
 - (i) On or about January 6, 2006, following an accident during which she lost control of her car and hit another vehicle, Ms. Ratcliff was arrested and charged with Operating a Motor Vehicle While Under the Influence, in violation of Section 4511.19(A)(1)(a), Ohio Revised Code, and Failure to Control, in violation of Section 331.34, Revised Ordinances of the City of Chillicothe,

Ohio. The citation issued to Ms. Ratcliff indicates that she refused to submit to a breathalyzer test. The Impounded Vehicle Log indicates that an empty bottle of alcohol was found in her car. On or about April 25, 2006, in the Chillicothe Municipal Court, Ross County, Ohio, she pled guilty to and was found guilty of the reduced charge of Having Physical Control of a Vehicle While Under the Influence, in violation of Section 4511.194(B), Ohio Revised Code.

Ms. Ratcliff was sentenced to one year of community control sanctions, which included the requirements that she be evaluated for substance abuse services; that she submit to random alcohol and/or drug testing, as requested; and that she not consume alcohol.

- (ii) On or about January 1, 2006, in response to a phone call to police, officers from the Chillicothe Police Department were dispatched to the apartment complex where Ms. Ratcliff was residing. According to the police incident report, Ms. Ratcliff had entered her neighbor's apartment without permission, and a fight had broken out between Ms. Ratcliff and her neighbor. While being questioned by a police officer the following day, Ms. Ratcliff admitted that she had been intoxicated at the time of the incident involving her neighbor. Upon conclusion of the interview, Ms. Ratcliff was charged with Criminal Trespass, in violation of Section 541.05, Revised Ordinances of the City of Chillicothe, Ohio; Criminal Mischief, in violation of Section 541.04, Revised Ordinances of the City of Chillicothe, Ohio; and Disorderly Conduct, in violation of Section 509.03(A)(1), Revised Ordinances of the City of Chillicothe, Ohio. On or about February 28, 2006, in the Chillicothe Municipal Court, Ross County, Ohio, Ms. Ratcliff was found guilty of Criminal Trespass, in violation of Section 541.05, Revised Ordinances of the City of Chillicothe, Ohio. The other charges were dismissed.
- (iii) On or about August 17, 2004, Ms. Ratcliff was charged with Possession of Drugs, in violation of Sections 2925.11(A) and 2925.11(C)(2)(a), Ohio Revised Code, and Drug Paraphernalia, in violation of Section 2925.14(C)(1), Ohio Revised Code. These charges were dismissed and then re-filed on or about December 21, 2004. The citations issued to Ms. Ratcliff by the police officer indicate that she had been in possession of clonazepam, a Schedule IV controlled substance, and marijuana. On or about February 3, 2005, in Chillicothe Municipal Court, Ross County, Ohio, she pled guilty to and was found guilty of Drug Paraphernalia, in violation of Section 2925.14(C)(1), Ohio Revised Code. The other charges were dismissed.
- (iv) On or about July 23, 2004, Ms. Ratcliff was charged with Purchase of Beer, in violation of Section 529.021, Codified Ordinances of the City of Jackson, Ohio. On or about July 27, 2004, in the Jackson County Municipal Court, she pled

guilty to and was found guilty of Purchase of Beer, in violation of Section 529.021, Codified Ordinances of the City of Jackson, Ohio.

- (b) In addition to the aforementioned information disclosed with Ms. Ratcliff's application, on or about January 10, 2004, she had been charged with Drug Abuse-Controlled Substance Possession or Use, in violation of Section 513.03 of the Codified Ordinances of the City of Jackson, Ohio, and with a violation of Curfew Hours, in violation of Section 509.12, Codified Ordinances of the City of Jackson, Ohio. The Jackson Police Department Arrest Report indicates that a field sobriety test was administered and the officer determined that [Ms. Ratcliff was] under the influence. The Arrest Report further indicates that a K-9 unit searched the vehicle and two marijuana roaches and a stem were found in the ash tray of [her] vehicle. Ms. Ratcliff was under the age of eighteen when these events occurred.
2. The May 3, 2007, certified letter from the Board further notified Ms. Ratcliff that, pursuant to Section 4731.22(B)(26), Ohio Revised Code, she had been ordered to submit to a 72-hour inpatient examination. The examination was scheduled to take place at Glenbeigh Hospital, a Board-approved treatment provider, and was originally scheduled for Monday June 4, 2007, at 10:00 a.m. Pursuant to Ms. Ratcliff's request and upon Board approval, her examination at Glenbeigh Hospital was rescheduled for Monday, July 9, 2007, at 10:00 a.m. This was confirmed with her via telephone on June 5, 2007. However, Ms. Ratcliff failed to appear for her Board-ordered examination.
- The May 3, 2007, certified letter from the Board further notified Ms. Ratcliff 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 her 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.
3. Ms. Ratcliff was duly notified of the examination order and its scheduled date. The certified letter return receipt was signed and dated by an agent of her household on May 5, 2007. At her request, the examination was rescheduled from June 4, 2007, to July 9, 2007. She was duly notified of the rescheduled date for the examination in a telephone conversation with a Board representative.
4. By a telephone call from Kathy Chambers, Intake Coordinator for Glenbeigh Hospital, on July 10, 2007, and subsequently by a letter from Ms. Chambers dated August 2, 2007, the Board was notified that Ms. Ratcliff had failed to appear for the examination that the Board had scheduled for her.

5. The evidence indicates that Ms. Ratcliff had failed to appear for her Board-ordered examination because she did not have the necessary funds. Moreover, the evidence indicates that, although Ms. Ratcliff's mother had expressed a willingness to lend or give her the money, Ms. Ratcliff declined to take the money due to her parents' financial circumstances.

Ms. Ratcliff failed to contact anyone at the Board's offices concerning her financial situation prior to the scheduled Board-ordered examination.

CONCLUSIONS OF LAW

1. Section 4731.22(B)(26), Ohio Revised Code, provides in pertinent part that any individual authorized to practice accepts the privilege of practicing in this state subject to supervision by the Board, and that by filing an application for or holding a certificate to practice, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the Board in writing. Further, the Board may compel an applicant or current licensee to submit to such an examination if it has reason to believe that the individual is impaired. Moreover, the expense of the examination is the responsibility of the individual compelled to be examined. Lastly, failure by an individual to submit to an examination ordered by the Board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence.

As described in Findings of Fact 1 through 5, Mary Ellen Ratcliff failed to appear for a Board-ordered examination. The evidence supporting Finding of Fact 1 was sufficient to give the Board reason to believe that Ms. Ratcliff suffers from impairment, and the Board was within its authority to order her to an examination. Further, as set forth in Findings of Fact 5, the evidence indicates that Ms. Ratcliff did not attend the examination because of her financial circumstances. However, by having applied for a certificate to practice massage therapy in Ohio, Ms. Ratcliff is deemed to have consented to submit to a Board-ordered examination, and to bear the expense of the examination. Accordingly, the evidence does not support a conclusion that lack of funds constituted circumstances beyond Ms. Ratcliff's control.

As set forth in Findings of Fact 1 through 5, above, the failure of Ms. Ratcliff to submit to a Board-ordered examination constitutes an admission of the allegations as set forth in the May 3, 2007, letter from the Board ordering her to the examination. That letter alleges that Ms. Ratcliff has been convicted of multiple misdemeanors that were related to alcohol abuse or drugs. Such conduct is strongly indicative that Ms. Ratcliff suffers from impairment due to substance abuse.

Accordingly, the conduct of Ms. Ratcliff, as set forth in Findings of Fact 1 through 5, above, constitutes "[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.

2. The Board’s September 12, 2007, notice of opportunity for hearing did not place Ms. Ratcliff on notice concerning the possible penalties for violation of Section 4731.22(B)(34), Ohio Revised Code, or make clear that a hearing could be requested regarding this alleged violation. Accordingly, no conclusion can be made that Ms. Ratcliff’s conduct constitutes “[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section * * *,” as that clause is used in Section 4731.22(B)(34), Ohio Revised Code.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **APPLICATION DENIED:** The application of Mary Ellen Ratcliff for a certificate to practice massage therapy in Ohio is DENIED.
- B. **CONDITIONS PLACED UPON ANY FUTURE CERTIFICATE GRANTED BY THE BOARD:** In the event that the Board should grant a future application by Ms. Ratcliff for a massage therapy certificate or other certificate, that certificate shall, for the violations found in this matter, be subject to the following conditions:
 1. **Suspension Of Certificate:** The certificate of Ms. Ratcliff to practice massage therapy¹ in the State of Ohio shall be SUSPENDED for an indefinite period of time.
 2. **Interim Monitoring:** During the period that Ms. Ratcliff’s certificate to practice massage therapy in Ohio is suspended, Ms. Ratcliff shall comply with the following terms, conditions, and limitations:
 - a. ***Obey the Law:*** Ms. Ratcliff shall obey all federal, state, and local laws, and all rules governing the practice of massage therapy in Ohio.
 - b. ***Personal Appearances:*** Ms. Ratcliff shall appear in person for an interview before the full Board or its designated representative during the third month following the month during which the Board approved Ms. Ratcliff’s application for a massage therapy certificate or other certificate. 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

¹ For the sake of clarity, “massage therapy” is used throughout the remainder of this order, although the conditions of this order would apply equally to any type of future certificate that the Board might grant to Ms. Ratcliff.

reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

- c. ***Quarterly Declarations:*** Ms. Ratcliff 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 during which the Board approved Ms. Ratcliff's application for a massage therapy certificate or other certificate. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
- d. ***Abstention from Drugs:*** Ms. Ratcliff shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to her by another so authorized by law who has full knowledge of Ms. Ratcliff's impairment.
- e. ***Abstention from Alcohol:*** Ms. Ratcliff shall abstain completely from the use of alcohol.
- f. ***Initiate Drug/Alcohol Treatment:*** Within thirty days of the date upon which a future application of Ms. Ratcliff for a massage therapy certificate or other certificate is approved by the Board, or as otherwise determined by the Board, Ms. Ratcliff shall submit to appropriate drug/alcohol treatment, as determined by an informed assessment of her current needs. Such assessment and treatment shall be provided by a treatment provider approved under Section 4731.25 of the Revised Code for treatment of drug and alcohol dependency.

Prior to the initial assessment, Ms. Ratcliff shall furnish the approved treatment provider copies of the Board's Summary of the Evidence, Findings of Fact, and Conclusions of Law, and any other documentation from the hearing record which the Board may deem appropriate or helpful to the treatment provider. Within ten days after the completion of the initial assessment, or as otherwise determined by the Board, Ms. Ratcliff shall cause a written report to be submitted to the Board from the treatment provider, which report shall include:

- i. A detailed plan of recommended treatment based upon the treatment provider's informed assessment of Ms. Ratcliff's current needs;
- ii. A statement indicating that Ms. Ratcliff entered into or commenced the recommended treatment program within forty-eight hours of its determination;

- iii. A copy of a treatment contract signed by Ms. Ratcliff establishing the terms of treatment and aftercare, including any required supervision or restrictions on practice during treatment or aftercare; and
- iv. A statement indicating that the treatment provider will immediately report to the Board any failure by Ms. Ratcliff to comply with the terms of the treatment contract during inpatient or outpatient treatment or aftercare.
- g. ***Comply with the Terms of Treatment and Aftercare Contract:*** Ms. Ratcliff shall maintain continued compliance with the terms of the treatment and aftercare contracts entered into with her treatment provider, provided that, where terms of the treatment and aftercare contract conflict with terms of this Order, the terms of this Order shall control.
- h. ***Drug & Alcohol Screens; Supervising Physician:*** Ms. Ratcliff shall submit to random urine screenings for drugs and/or alcohol on a weekly basis or as otherwise directed by the Board. Ms. Ratcliff 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 date upon which a future application of Ms. Ratcliff for a massage therapy certificate or other certificate is approved by the Board, or as otherwise determined by the Board, Ms. Ratcliff shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Ms. Ratcliff 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 Ms. Ratcliff. Ms. Ratcliff 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.

Ms. Ratcliff 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, Ms. Ratcliff must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising

physician as soon as practicable. Ms. Ratcliff 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 Ms. Ratcliff's quarterly declaration. It is Ms. Ratcliff's responsibility to ensure that reports are timely submitted.

- i. ***Submission of Blood or Urine Specimens upon Request:*** Ms. Ratcliff shall submit blood and urine specimens for analysis without prior notice at such times as the Board may request, at Ms. Ratcliff's expense.
- j. ***Rehabilitation Program:*** Ms. Ratcliff 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. Ms. Ratcliff 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 Ms. Ratcliff's quarterly declarations.
- k. ***Contact Impaired Professionals Committee:*** Within thirty days of the date upon which a future application of Ms. Ratcliff for a massage therapy certificate or other certificate is approved by the Board, or as otherwise determined by the Board, Ms. Ratcliff shall contact the Ohio Physicians Health Program, or another impaired professionals committee approved by the Board, to arrange for assistance in recovery and/or aftercare.
- l. ***Releases:*** Ms. Ratcliff 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 Ms. Ratcliff's impairment and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after Board approval of Ms. Ratcliff's application for a massage therapy certificate or other certificate. 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.

Ms. Ratcliff shall also provide the Board written consent permitting any treatment provider from whom Ms. Ratcliff obtains treatment to notify the Board in the event she 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.

3. **Conditions For Reinstatement Or Restoration:** The Board shall not consider reinstatement or restoration of Ms. Ratcliff's certificate to practice massage therapy until all of the following conditions have been met:
- a. ***Application for Reinstatement or Restoration:*** Ms. Ratcliff shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 - b. ***Compliance with Interim Conditions:*** Ms. Ratcliff shall have maintained compliance with all the terms and conditions set forth in Subsection B2 of this Order.
 - c. ***Demonstration of Ability to Resume Practice:*** Ms. Ratcliff shall demonstrate to the satisfaction of the Board that she can resume the practice of massage therapy in compliance with acceptable and prevailing standards of care under the provisions of her certificate. Such demonstration shall include but shall not be limited to the following:
 - i. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Ms. Ratcliff has successfully completed any required inpatient treatment.
 - ii. 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.
 - iii. Evidence of continuing full compliance with this Order.
 - iv. Two written reports indicating that Ms. Ratcliff's ability to practice has been evaluated for chemical dependency and/or impairment and that she 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 Ms. Ratcliff's application for reinstatement or restoration. The reports of evaluation shall describe with particularity the bases for the determination that Ms. Ratcliff has been found capable of

practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon her practice.

- d. ***Additional Evidence of Fitness To Resume Practice:*** In the event that Ms. Ratcliff has not been engaged in the active practice of massage therapy for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of her fitness to resume practice.
4. **Probation:** Upon reinstatement or restoration, Ms. Ratcliff's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
 - a. ***Terms, Conditions, and Limitations Continued from Suspension Period:*** Ms. Ratcliff shall continue to be subject to the terms, conditions, and limitations specified in Subsection B2 of this Order.
 - b. ***Absence from Ohio:*** Ms. Ratcliff 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.
 - c. ***Noncompliance Will Not Reduce Probationary Period:*** In the event Ms. Ratcliff 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.
 5. **Termination Of Probation:** Upon successful completion of probation, as evidenced by a written release from the Board, Ms. Ratcliff's certificate will be fully restored.
 6. **Required Reporting To Employers And Hospitals:** Within thirty days of the date upon which a future application of Ms. Ratcliff for a massage therapy certificate or other certificate is approved by the Board, or as otherwise determined by the Board, Ms. Ratcliff shall provide a copy of this Order to all employers or entities with which she is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where she has privileges or appointments. Further, Ms. Ratcliff shall provide a copy of this Order to all employers or entities with which she contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where she applies for or obtains privileges or

appointments. This requirement shall continue until Ms. Ratcliff receives from the Board written notification of her successful completion of probation.

7. **Required Reporting To Other State Licensing Authorities:** Within thirty days of the date upon which a future application of Ms. Ratcliff for a massage therapy certificate or other certificate is approved by the Board, or as otherwise determined by the Board, Ms. Ratcliff 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 she currently holds any professional license. Ms. Ratcliff 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 she applies for any professional license or reinstatement or restoration or restoration of any professional license. Further, Ms. Ratcliff 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 requirement shall continue until Ms. Ratcliff receives from the Board written notification of her successful completion of probation.

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



R. Gregory Porter
Hearing Examiner

State Medical Board of Ohio

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



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EXCERPT FROM THE DRAFT MINUTES OF DECEMBER 12, 2007

REPORTS AND RECOMMENDATIONS

Dr. Kumar announced that the Board would now consider the Reports and Recommendations appearing on its agenda. He asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings of fact, conclusions of law, and orders, and any objections filed in the matters of: Kimberli Jo Burback; Michael Shane Gainey, M.D.; Russell L. Gaudett; Cynthia Joan Johnson, P.A.; Kandhasamy Kannapiran, MD.; Ali Khan, M.D.; Robert M. Moore, M.T.; Kolli Mohan Prasad, M.D.; Willie Calvin Rabb, Jr., D.P.M.; Mary Ellen Ratcliff; and Robert Rowan Summers, D.O. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Mr. Hairston	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye

Dr. Madia - aye
Mr. Browning - aye
Mr. Hairston - aye
Dr. Steinbergh - aye
Dr. Kumar - aye

Dr. Kumar 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. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

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

.....

MARY ELLEN RATCLIFF

Dr. Kumar directed the Board's attention to the matter of Mary Ellen Ratcliff. He advised that objections to Hearing Examiner Porter's Report and Recommendation were filed by the State and were previously distributed to Board members.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF MARY ELLEN RATCLIFF. DR. VARYANI SECONDED THE MOTION.

Dr. Kumar stated that he would now entertain discussion in the above matter.

Dr. Egner stated that she has the same objections to this case as she had in the matter of Dr. Gaudett. This is an unlicensed person who has finished massage school but will be subject to all of these conditions when not having gone through a 28-day treatment program. That is not in accordance with the Board's rules. Dr. Egner stated that she has the same alternative proposed orders for this person as she did for the previous case.

DR. EGNER MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF MARY ELLEN RATCLIFF BY SUBSTITUTING THE FOLLOWING:

It is hereby ORDERED that:

- A. **APPLICATION DENIED:** The application of Mary Ellen Ratcliff for a certificate to practice massage therapy in Ohio is DENIED.

- B. **CONDITIONS PLACED UPON ANY FUTURE APPLICATION:** Ms. Ratcliff shall not apply in the future for a certificate to practice massage therapy in the State of Ohio, or for any other certificate issued by the Board, until all of the following conditions are met.
1. **Application:** Ms. Ratcliff shall submit an application, accompanied by appropriate fees.
 2. **Demonstration of Ability to Practice:** Ms. Ratcliff shall demonstrate to the satisfaction of the Board that he can 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 Ms. Ratcliff has successfully completed any required inpatient treatment, including at least twenty-eight days of inpatient or residential treatment for chemical dependence, as set forth in Rules 4731-16-02(B)(4) and 4731-16-08(A)(13) of the Administrative Code, completed consecutively.
 - 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. Two written reports indicating that Ms. Ratcliff'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 Ms. Ratcliff. Prior to the assessments, Ms. Ratcliff shall provide the evaluators with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Order. The reports from the evaluators shall include any recommendations for treatment, monitoring, or supervision of Ms. Ratcliff, and any conditions, restrictions, or limitations that should be imposed on Ms. Ratcliff'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.

C. **PROBATIONARY CONDITIONS TO BE PLACED UPON ANY FUTURE CERTIFICATE GRANTED BY THE BOARD:** In the event that the Board should grant a future application by Ms. Ratcliff for a certificate to practice massage therapy in the State of Ohio, or for any other certificate issued by the Board, that certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

1. **Obey the Law:** Ms. Ratcliff shall obey all federal, state, and local laws, and all rules governing the practice of massage therapy or other licensed practice in Ohio.
2. **Personal Appearances:** Ms. Ratcliff shall appear in person for an interview before the full Board or its designated representative during the third month following the month during which the Board approved Ms. Ratcliff's application for a massage therapy certificate or other certificate. 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:** Ms. Ratcliff 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 during which the Board approved Ms. Ratcliff's application for a massage therapy certificate or other certificate. 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:** Ms. Ratcliff 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 Ms. Ratcliff's history of impairment.
5. **Abstention from Alcohol:** Ms. Ratcliff shall abstain completely from the use of alcohol.

6. **Comply with the Terms of Treatment and Aftercare Contract:** Ms. Ratcliff shall maintain continued compliance with the terms of the treatment and aftercare contracts entered into with his treatment provider, provided that, where terms of the treatment and aftercare contract conflict with terms of this Order, the terms of this Order shall control.
7. **Drug & Alcohol Screens; Supervising Physician:** Ms. Ratcliff shall submit to random urine screenings for drugs and/or alcohol on a weekly basis or as otherwise directed by the Board. Ms. Ratcliff 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 date upon which a future application of Ms. Ratcliff for a massage therapy certificate or other certificate is approved by the Board, or as otherwise determined by the Board, Ms. Ratcliff shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Ms. Ratcliff 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 Ms. Ratcliff. Ms. Ratcliff 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.

Ms. Ratcliff 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, Ms. Ratcliff must immediately notify the Board in writing and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Ms. Ratcliff 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 Ms. Ratcliff's quarterly declaration. It is Ms. Ratcliff's responsibility to ensure that reports are timely submitted.

8. **Provision of Blood or Urine for Screening without Prior Notice:** Ms. Ratcliff shall submit blood and/or urine specimens for analysis without prior notice at such times as the Board may request, at Ms. Ratcliff's expense.
9. **Rehabilitation Program:** Ms. Ratcliff shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A. or C.A., no less than three times per week, unless otherwise determined by the Board. Substitution of any other specific program must receive prior Board approval. Ms. Ratcliff 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 Ms. Ratcliff's quarterly declarations.
10. **Releases:** Ms. Ratcliff 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 Ms. Ratcliff's impairment and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after Board approval of Ms. Ratcliff's application for a massage therapy certificate or other certificate. 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.

Ms. Ratcliff shall also provide the Board written consent permitting any treatment provider from whom Ms. Ratcliff 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.
11. **Absence from Ohio:** Ms. Ratcliff 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.

12. **Tolling of Probationary Period while Out of Compliance:** In the event Ms. Ratcliff 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.
13. **Required Reporting to Employers and Hospitals:** Within thirty days of the date upon which a future application of Ms. Ratcliff for a massage therapy certificate or other certificate is approved by the Board, or as otherwise determined by the Board, Ms. Ratcliff 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, Ms. Ratcliff 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. This requirement shall continue until Ms. Ratcliff receives from the Board written notification of his successful completion of probation.
14. **Required Reporting To Other State Licensing Authorities:** Within thirty days of the date upon which a future application of Ms. Ratcliff for a massage therapy certificate or other certificate is approved by the Board, or as otherwise determined by the Board, Ms. Ratcliff 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 currently holds any professional license. Ms. Ratcliff 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, Ms. Ratcliff 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 requirement shall continue until Ms. Ratcliff receives from the Board written notification of his successful completion of probation.
15. **Termination Of Probation:** Upon successful completion of probation, as evidenced by a written release from the Board, Ms. Ratcliff's certificate will be fully restored.

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

DR. STEINBERGH SECONDED THE MOTION.

Dr. Varyani stated that the only problem he has with this is that Ms. Ratcliff exhibits behavior that is very unbecoming. She was charged with disorderly conduct when she went to a neighbor's house and started a fight. Dr. Varyani stated that he knows that Ms. Ratcliff is impaired and that things happen when you're impaired, but this is a bothersome sign to him. Dr. Varyani stated that he will, however, agree with Dr. Egner's proposed amendment.

A vote was taken on Dr. Egner's motion to amend:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Mr. Hairston	- abstain
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF MARY ELLEN RATCLIFF. MR. BROWNING SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Mr. Hairston	- abstain
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

The motion carried.

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

September 12, 2007

Ms. Mary Ellen Ratcliff
30045 Claypool Hollow Road
McArthur, OH 45651

Dear Ms. Ratcliff:

Due to your failure to submit to an examination on July 9, 2007, as ordered by the State Medical Board of Ohio [Board], and your failure to notify the Board of any circumstances beyond your control preventing you from submitting to said examination, pursuant to Section 4731.22(B)(26), Ohio Revised Code, a legal presumption has been established that you have admitted the factual and legal allegations demonstrating an impairment of your 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 alleged against you in the Board's letter dated May 3, 2007, and sent to you by certified mail [May 3, 2007 certified letter], so ordering you to submit to such examination.

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the Board intends, for one or more of the following reasons, to determine whether your failure to submit to the aforementioned examination was due to circumstances beyond your control, which would rebut the legal presumption of impairment and merit rescheduling the examination as directed by the Board, or conversely, whether your failure to submit to the aforementioned examination was due to circumstances within your control, which would render the legal presumption of impairment conclusive and result in the Board further determining whether to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice massage therapy, or to reprimand you or place you on probation based upon your legally admitted impairment:

- (1) On or about August 15, 2006, you caused to be submitted to the Board an Application for Certificate to Practice a Limited Branch, Massage Therapy, which remains pending. By letter dated May 3, 2007, the Board notified you of its determination that it had reason to believe that you are in violation of Section 4731.22(B)(26), Ohio Revised Code, and ordered you to undergo a 72-hour inpatient examination to determine if you are in violation of Section 4731.22(B)(26), Ohio Revised Code. The Board's determination was based upon one or more of the reasons outlined in such letter, which included the following:
 - (a) In or around August 2006, you submitted to the Board an Application for Certificate to Practice a Limited Branch, Massage Therapy [Application] and you answered affirmatively to Question 11 in the Application, which asks whether you have ever been convicted of or found guilty of a violation of any law, other than a

Mailed 9-13-07

minor traffic violation. You submitted a supplemental response to Question 11, which, along with certified court documents, disclosed the following:

- (i) On or about January 6, 2006, following an accident during which you lost control of your car and hit another vehicle, you were arrested and charged with Operating a Motor Vehicle While Under the Influence, in violation of Section 4511.19(A)(1)(a), Ohio Revised Code, and Failure to Control, in violation of Section 331.34, Revised Ordinances of the City of Chillicothe, Ohio. The citation issued to you indicates that you refused to submit to a breathalyzer test. The Impounded Vehicle Log indicates that an empty bottle of alcohol was found in your car. On or about April 25, 2006, in the Chillicothe Municipal Court, Ross County, Ohio, you pled guilty to and were found guilty of the reduced charge of Having Physical Control of a Vehicle While Under the Influence, in violation of Section 4511.194(B), Ohio Revised Code. You were sentenced to one year of community control sanctions, which included the requirements that you be evaluated for substance abuse services; that you submit to random alcohol and/or drug testing, as requested; and that you not consume alcohol.
- (ii) On or about January 1, 2006, officers from the Chillicothe Police Department were dispatched to the apartment complex where you were residing, in response to a phone call to police. According to the police incident report, you entered your neighbor's apartment without permission, and a fight broke out between your neighbor and you. While being questioned by the officer the following day, you admitted that you were intoxicated at the time of the incident involving your neighbor. Upon conclusion of the interview, you were charged with Criminal Trespass, in violation of Section 541.05, Revised Ordinances of the City of Chillicothe, Ohio; Criminal Mischief, in violation of Section 541.04, Revised Ordinances of the City of Chillicothe, Ohio; and Disorderly Conduct, in violation of Section 509.03(A)(1), Revised Ordinances of the City of Chillicothe, Ohio. On or about February 28, 2006, in the Chillicothe Municipal Court, Ross County, Ohio, you were found guilty of Criminal Trespass, in violation of Section 541.05, Revised Ordinances of the City of Chillicothe, Ohio. Other charges were dismissed.
- (iii) On or about August 17, 2004, you were charged with Possession of Drugs, in violation of Sections 2925.11(A) and 2925.11(C)(2)A, Ohio Revised Code, and Drug Paraphernalia, in violation of Section 2925.14(C)(1), Ohio Revised Code. These charges were dismissed and then re-filed on or about December 21, 2004. The citations issued to you by the police officer indicate that you were in possession of Clonazepam, a Schedule IV controlled substance, and marijuana. On or about February 3, 2005, in Chillicothe Municipal Court, Ross County, Ohio, you pled guilty to and were found guilty of Drug Paraphernalia, in violation of Section 2925.14(C)(1), Ohio Revised Code. Other charges were dismissed.

- (iv) On or about July 23, 2004, you were charged with Purchase of Beer, in violation of Section 529.021, Codified Ordinances of the City of Jackson, Ohio. On or about July 27, 2004, in the Jackson County Municipal Court, you pled guilty to and were found guilty of Purchase of Beer, in violation of Section 529.021, Codified Ordinances of the City of Jackson, Ohio.
- (b) In addition to the aforementioned information disclosed with your application, on or about January 10, 2004, you were charged with Drug Abuse - Controlled Substance Possession or Use, in violation of Section 513.03 of the Codified Ordinances of the City of Jackson, Ohio, and with a violation of Curfew Hours, in violation of Section 509.12, Codified Ordinances of the City of Jackson, Ohio. The Jackson Police Department Arrest Report indicates that a field sobriety test was administered and the officer determined that you were under the influence. The Arrest Report further indicates that a K-9 unit searched the vehicle and two marijuana roaches and a stem were found in the ash tray of your vehicle.
- (2) The May 3, 2007 certified letter from the Board further notified you that, pursuant to Section 4731.22(B)(26), Ohio Revised Code, you were ordered to submit to a 72-hour inpatient examination. The examination was scheduled to take place at Glenbeigh Hospital, a Board-approved treatment provider, and was originally scheduled for Monday June 4, 2007, at 10:00 a.m. Pursuant to your request and upon Board approval, your examination at Glenbeigh Hospital was rescheduled for Monday, July 9, 2007, at 10:00 a.m. This was confirmed with you via telephone on June 5, 2007. You failed to appear for your examination on either date.

The May 3, 2007 certified letter from the Board further notified you 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 you that if you failed to submit to the examination, and such failure was not due to circumstances beyond your control, the Board would be authorized to enter a default and final order without the taking of testimony or presentation of evidence.

- (3) You were duly notified of the examination order and its scheduled date. The certified letter return receipt was signed and dated by an agent of your household on May 5, 2007. At your request, the examination was rescheduled from June 4, 2007, to July 9, 2007. You were duly notified of the rescheduled date for the examination in a telephone conversation with a Board representative.
- (4) By a telephone call from Kathy Chambers, Intake Coordinator for Glenbeigh Hospital, on July 10, 2007, and subsequently by a letter from Ms. Chambers dated August 2, 2007, the Board was notified that you failed to appear for the examination that the Board scheduled for you. At no time did you inform the Board that your failure to appear was due to circumstances beyond your control. Accordingly, pursuant to Section 4731.22(B)(26), Ohio Revised Code, and in consideration of the affidavits of Lynn A. Zondorak, Enforcement Attorney, and Penny Grubb, Chief, Licensure, copies of which are attached hereto and fully incorporated herein, the Board hereby FINDS that you have admitted the truth of the allegations demonstrating impairment as set forth in the May 3, 2007 letter

from the Board. The Board FINDS that pursuant to Section 4731.22(B)(26), Ohio Revised Code, your failure to appear for the examination ordered by the Board as directed constitutes “[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.

Section 4731.22(B)(26), Ohio Revised Code, provides that any individual authorized to practice accepts the privilege of practicing in this state subject to supervision by the Board; that by filing an application for or holding a certificate to practice, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the Board in writing; and that the expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination ordered by the Board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual’s control, and a default and final order may be entered without the taking of testimony or presentation of evidence.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) through (4) 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 4731.22(B)(26), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (4) above, individually and/or collectively, constitute “[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue,” as that clause is used in Section 4731.22(B)(34), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, and Chapter 4731., Ohio Revised Code, you are hereby advised that you are entitled to a hearing concerning whether your failure to submit to the examination as directed was due to circumstances beyond your control. 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, permanently revoke, suspend, refuse to register or reinstate your certificate to practice massage therapy or to reprimand you or place you on probation.

Ms. Mary Ellen Ratcliff
Opportunity for Hearing on Failure to Submit to an Examination
Page 5

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an individual’s certificate to practice, refuses to register an applicant, or refuses to reinstate an individual’s certificate to practice, 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 to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lance A. Talmage MD". The signature is fluid and cursive.

Lance A. Talmage, M.D.
Secretary

LAT/LAZ/FLB
Enclosures

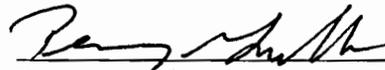
CERTIFIED MAIL #91 7108 2133 3931 8317 1098
RETURN RECEIPT REQUESTED

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 licensure applications maintained by the Board pursuant to Chapter 47311, Ohio Revised Code.
- 4) I have this day carefully examined the licensure application submitted to the Board by Mary Ellen Ratcliff.
- 5) Based on such examination, I have found the last known address of record of Mary Ellen Ratcliff to be: 30045 Claypool Hollow Road, McArthur, Ohio 45651.
- 6) Further, Affiant Sayeth Naught.



Penny Grubb
Chief, Licensure

Sworn to and signed before me, Barbara Jacobs, Notary Public, this 7th
day of September, 2007.



Notary Public

BARBARA ANN JACOBS, ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date.
Section 147.03 R.C.

AFFIDAVIT

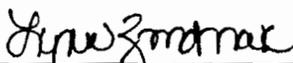
The State of Ohio
Franklin County, SS

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

- 1) I am employed by the State Medical Board of Ohio [Board].
- 2) I serve the Board in the position of Enforcement Attorney.
- 3) In the course of my regular duties, I am responsible for 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, Chapters 4730., 4731., 4760., and 4762., Ohio Revised Code.
- 4) I coordinated the investigation of the complaints filed against Mary Ellen Ratcliff, which resulted in the issuance of a letter from the Board dated May 3, 2007, ordering her to submit to a 72-hour inpatient examination, pursuant to Section (B)(26), Ohio Revised Code, “[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.”
- 5) The May 3, 2007, letter to Ms. Ratcliff ordered her to submit to a 72-hour inpatient evaluation at Glenbeigh Hospital [Glenbeigh], 2863 St. Rt. 45, Rock Creek, Ohio 44084, on Monday, June 4, 2007, at 10:00 a.m. A copy of the letter is attached to and incorporated herein.
- 6) The letter was sent to Ms. Ratcliff via certified mail on May 3, 2007, to her address of record, which is listed as 30045 Claypool Hollow Road, McArthur, OH 45651. The certified letter to Ms. Ratcliff was signed for by an agent of Ms. Ratcliff’s household on May 5, 2007. A copy of the electronic return receipt is attached hereto and incorporated herein.
- 8) On May 10, 2007, Ms. Ratcliff contacted me and requested that her evaluation be rescheduled because she had moved to Florida. A copy of my telephone message documenting this conversation is attached hereto and incorporated herein.
- 9) On May 15, 2007, I received the approval of the Secretary and Supervising Member to reschedule Ms. Ratcliff’s exam.
- 10) On June 5, 2007, Ms. Ratcliff’s evaluation was rescheduled for Monday July 9, 2007. This was confirmed with Ms. Ratcliff and Glenbeigh. Copies of my telephone messages documenting these conversations are attached hereto and incorporated herein.

11) On or about July 10, 2007, Kathy Chambers, Intake Coordinator for Glenbeigh, notified me via telephone of Ms. Ratcliff's failure to appear at Glenbeigh for her scheduled examination on July 9, 2007. On August 14, 2007, I received a letter from Ms. Chambers confirming Ms. Ratcliff's failure to appear for her Board ordered examination. A copy of the letter from Ms. Chambers is attached hereto and incorporated herein.

Further, Affiant Sayeth Naught.



Lynn Zondorak, Enforcement Attorney

Sworn to and signed before me, Barbara Jacobs, Notary Public, this 7th
day of September, 2007.



Notary Public

BARBARA ANN JACOBS, ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date.
Section 147.03 R.C.



State Medical Board of Ohio

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

May 3, 2007

Personal and Confidential

Ms. Mary Ellen Ratcliff
30045 Claypool Hollow Road
McArthur, OH 45651

Dear Ms. Ratcliff:

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) In or around August 2006, you submitted to the Board an Application for Certificate to Practice a Limited Branch, Massage Therapy [Application] and you answered affirmatively to Question 11 in the Application, which asks whether you have ever been convicted of or found guilty of a violation of any law, other than a minor traffic violation. You submitted a supplemental response to Question 11, which, along with certified court documents, disclosed the following:
 - (a) On or about January 6, 2006, following an accident during which you lost control of your car and hit another vehicle, you were arrested and charged with Operating a Motor Vehicle While Under the Influence, in violation of Section 4511.19(A)(1)(a), Ohio Revised Code, and Failure to Control, in violation of Section 331.34, Revised Ordinances of the City of Chillicothe, Ohio. The citation issued to you indicates that you refused to submit to a breathalyzer test. The Impounded Vehicle Log indicates that an empty bottle of alcohol was found in your car. On or about April 25, 2006, in the Chillicothe Municipal Court, Ross County, Ohio, you pled guilty to and were found guilty of the reduced charge of Having Physical Control of a Vehicle While Under the Influence, in violation of Section 4511.194(B), Ohio Revised Code. You were sentenced to one year of community control sanctions, which included the requirements that you be evaluated for substance abuse services; that you submit to random alcohol and/or drug testing, as requested; and that you not consume alcohol.

- (b) On or about January 1, 2006, officers from the Chillicothe Police Department were dispatched to the apartment complex where you were residing, in response to a phone call to police. According to the police incident report, you entered your neighbor's apartment without permission, and a fight broke out between your neighbor and you. While being questioned by the officer the following day, you admitted that you were intoxicated at the time of the incident involving your neighbor. Upon conclusion of the interview, you were charged with Criminal Trespass, in violation of Section 541.05, Revised Ordinances of the City of Chillicothe, Ohio; Criminal Mischief, in violation of Section 541.04, Revised Ordinances of the City of Chillicothe, Ohio; and Disorderly Conduct, in violation of Section 509.03(A)(1), Revised Ordinances of the City of Chillicothe, Ohio. On or about February 28, 2006, in the Chillicothe Municipal Court, Ross County, Ohio, you were found guilty of Criminal Trespass, in violation of Section 541.05, Revised Ordinances of the City of Chillicothe, Ohio. Other charges were dismissed.
 - (c) On or about August 17, 2004, you were charged with Possession of Drugs, in violation of Sections 2925.11(A) and 2925.11(C)(2)A, Ohio Revised Code, and Drug Paraphernalia, in violation of Section 2925.14(C)(1), Ohio Revised Code. These charges were dismissed and then re-filed on or about December 21, 2004. The citations issued to you by the police officer indicate that you were in possession of Clonazepam, a Schedule IV controlled substance, and marijuana. On or about February 3, 2005, in Chillicothe Municipal Court, Ross County, Ohio, you pled guilty to and were found guilty of Drug Paraphernalia, in violation of Section 2925.14(C)(1), Ohio Revised Code. Other charges were dismissed.
 - (d) On or about July 23, 2004, you were charged with Purchase of Beer, in violation of Section 529.021, Codified Ordinances of the City of Jackson, Ohio. On or about July 27, 2004, in the Jackson County Municipal Court, you pled guilty to and were found guilty of Purchase of Beer, in violation of Section 529.021, Codified Ordinances of the City of Jackson, Ohio.
- (2) In addition to the aforementioned information disclosed with your application, on or about January 10, 2004, you were charged with Drug Abuse - Controlled Substance Possession or Use, in violation of Section 513.03 of the Codified Ordinances of the City of Jackson, Ohio, and with a violation of Curfew Hours, in violation of Section 509.12, Codified Ordinances of the City of Jackson, Ohio. The Jackson Police Department Arrest Report indicates that a field sobriety test was administered and the officer determined that you were under the influence.

The Arrest Report further indicates that a K-9 unit searched the vehicle and two marijuana roaches and a stem were found in the ash tray of your vehicle.

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 **Glenbeigh Hospital, 2863 St. Rt. 45, Rock Creek, Ohio 44084, telephone number (440) 563-3400**. You are to report to the Glenbeigh Admissions Office, on **Monday, June 4, 2007, at 10:00 a.m.**, for a 72-hour in-patient evaluation. Please contact Cathy Chambers at the above-listed telephone number one week prior to the evaluation for information regarding admission procedures and for driving directions.

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 \$1,800.00. You must present a certified check or money order in the amount of \$1,800.00 made payable to **Glenbeigh Hospital** 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.

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,



Lance A. Talmage, M.D.
Secretary

LAT/LAZ/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3931 8318 4159
RETURN RECEIPT REQUESTED

RATCLIFF-

LAZ



Date Produced: 05/07/2007

STATE MEDICAL BOARD OF OHIO

The following is the delivery information for Certified item number 7108 2133 3931 8318 4159. Our records indicate that this item was delivered on 05/05/2007 at 09:02 a.m. in MC ARTHUR, OH, 45651. The scanned image of the recipient information is provided below.

Signature of Recipient:

Lori Ratcliff

Lori Ratcliff

Address of Recipient:

30045 Claypool Hollow Rd

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,

United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Customer Reference Number: 4225901 18019711RATCLIFF LAZ

PHONE MESSAGE MEMO	TO	DATE 5/10/07	TIME	AM	PM
	FROM	Mary Rodcliff	PHONE (740) 590-9559		
	OF		CELL ()		
			FAX ()		
MESSAGE	Living in FL - she will be there permanently but wants to first pursue OH licensure & then get her FL license				
	She is in FL & if she will be able to be up here in a month -				
E-MAIL ADDRESS			SIGNED		
PHONED <input type="checkbox"/>	CALL BACK <input type="checkbox"/>	RETURNED CALL <input type="checkbox"/>	WANTS TO SEE YOU <input type="checkbox"/>	WILL CALL AGAIN <input type="checkbox"/>	WAS IN <input type="checkbox"/> URGENT <input type="checkbox"/>

PHONE MESSAGE MEMO	TO	DATE 5/15/07	TIME	AM	PM
	FROM	Mary Rodcliff	PHONE ()		
	OF		CELL ()		
			FAX ()		
MESSAGE	She will be back in OH the end of June to get stuff out of storage.				
	Will reschedule then - for week she will be in OH				
E-MAIL ADDRESS			SIGNED		
PHONED <input type="checkbox"/>	CALL BACK <input type="checkbox"/>	RETURNED CALL <input type="checkbox"/>	WANTS TO SEE YOU <input type="checkbox"/>	WILL CALL AGAIN <input type="checkbox"/>	WAS IN <input type="checkbox"/> URGENT <input type="checkbox"/>

PHONE MESSAGE MEMO	TO	Cathy Chambers	DATE 5/15/07	TIME	AM	PM
	FROM	re Rodcliff eval.	PHONE (440) 563 3400			
	OF	schedule for June 4	CELL ()			
			FAX ()			
MESSAGE	Eval sched. for June 4 will be pushed back since Ms. Rodcliff will not be in OH until end of June - I will call her					
	E-MAIL ADDRESS			SIGNED		
PHONED <input type="checkbox"/>	CALL BACK <input type="checkbox"/>	RETURNED CALL <input type="checkbox"/>	WANTS TO SEE YOU <input type="checkbox"/>	WILL CALL AGAIN <input type="checkbox"/>	WAS IN <input type="checkbox"/>	URGENT <input type="checkbox"/>

PHONE MEMO	TO	Cathy Chambers	DATE	6/5/07	TIME	AM PM							
	FROM		PHONE	(440) 563-3400									
	OF		CELL	()									
			FAX	()									
MESSAGE	calling re rescheduling Mary Ellen Radcliff evaluation.												
	July 2 - scheduled. Hold her I would call Mary + see if this works												
E-MAIL ADDRESS			SIGNED										
PHONED	<input type="checkbox"/>	CALL BACK	<input type="checkbox"/>	RETURNED CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>	WAS IN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>

PHONE MEMO	TO	Mary Ellen Radcliff	DATE	6/5/07	TIME	AM PM
	FROM		PHONE	(740) 590-9559		
	OF		CELL	()		
			FAX	()		
MESSAGE	she would rather go in Mon. July 9 - 7 th July					
	I will call Glenbeigh + call her back					
E-MAIL ADDRESS			SIGNED			

PHONE MEMO	TO	Cathy Chambers	DATE	6/5/07	TIME	AM PM							
	FROM	- Glenbeigh	PHONE	()									
	OF	re Mary Ellen Radcliff	CELL	()									
			FAX	()									
MESSAGE	She would rather go on July 9 - will this work? Yes - July 9 works												
	E-MAIL ADDRESS			SIGNED									
PHONED	<input type="checkbox"/>	CALL BACK	<input type="checkbox"/>	RETURNED CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>	WAS IN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>

PHONE MEMO	TO	Mary Radcliff	DATE	6/5/07	TIME	AM PM							
	FROM		PHONE	(740) 590-9559									
	OF		CELL	()									
			FAX	()									
MESSAGE	Eval. scheduled for July 9 at Glenbeigh. Everything else in letter is the same - just date is different												
	E-MAIL ADDRESS			SIGNED									
PHONED	<input type="checkbox"/>	CALL BACK	<input type="checkbox"/>	RETURNED CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>	WAS IN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>

Glenbeigh

 Cleveland Clinic affiliate



Accredited By
Joint Commission
On Accreditation of
Healthcare Organizations

P.O. BOX 298 • ROCK CREEK, OHIO 44084-0298 • 440-563-3400 • FAX 440-563-9619

OHIO STATE MEDICAL BOARD

August 2, 2007

AUG 14 2007

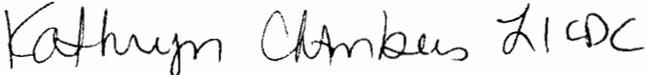
RECEIVED

Lynn Vandorak
Enforcement Attorney
Ohio State Medical Board
30 South High St.
3rd Floor
Columbus, Ohio 42215-6127

Dear Lynn Vandorak,

I am writing you this letter to inform you that Mary Ratcliffe did not keep her three day inpatient evaluation appointment for 07-09-07. She was supposed to complete this evaluation at Glenbeigh 2863 State Route 45 Rock Creek, Ohio 44084. Mary did not rescheduled her appointment. If you have any further questions or comments please do not hesitate to contact me at 440-563-3400 ext. 1014.

Sincerely,



Kathryn Chambers LICDC
Intake Coordinator

CONFIDENTIAL, THIS INFORMATION
HAS BEEN DISCLOSED TO YOU FROM
CONFIDENTIAL RECORDS. ANY
FURTHER DISCLOSURE OF IT WITHOUT
THE SPECIFIC WRITTEN CONSENT OF
THE PERSON TO WHOM IT PERTAINS,
OR AS OTHERWISE PERMITTED BY
LAW IS PROHIBITED