

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

October 14, 2009

Jennifer Marie Tucker, M.T.
7655 Mt. Eaton Road
P. O. Box 122
Marshallville, OH 44645

RE: 09-CRF-005

Dear Ms. Tucker:

Please find enclosed a certified copy of the Findings, Order and Journal Entry approved and confirmed by the State Medical Board meeting in regular session on October 14, 2009.

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 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 of the Ohio Revised Code.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

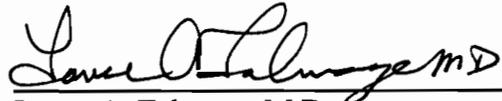
CERTIFIED MAIL RECEIPT NO. 91 7108 2133 3934 3487 6659
RETURN RECEIPT REQUESTED

Mailed 10-15-09

CERTIFICATION

I hereby certify that the attached copy of the Findings, Order and Journal Entry approved by the State Medical Board, meeting in regular session on October 14, 2009, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of Jennifer Marie Tucker, M.T., Case Number 09-CRF-005, as it appears in the Journal of the State Medical Board of Ohio.

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



Lance A. Talmage, M.D.

Secretary

(SEAL)

October 14, 2009

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF :
 : Case No. 09-CRF-005
JENNIFER MARIE TUCKER, M.T. :

FINDINGS, ORDER AND JOURNAL ENTRY

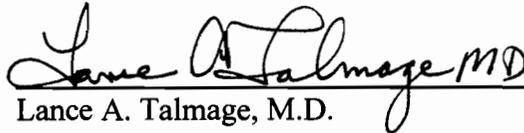
This matter came on for consideration before the State Medical Board of Ohio on October 14, 2009, pursuant to a Notice of Opportunity for Hearing issued to Jennifer Marie Tucker, M.T., on January 14, 2009. No request for hearing having been received within the statutorily mandated time period, Hearing Examiner Patricia A. Davidson, Esq., on behalf of the Board, reviewed and summarized evidence supporting the Notice, and prepared Proposed Findings and a Proposed Order.

WHEREFORE, having reviewed Ms. Davidson's Proposed Findings and Proposed Order, which is attached hereto and incorporated herein, the Board hereby adopts the Proposed Findings and Proposed Order.

Accordingly, it is hereby ORDERED that:

The application of Jennifer Marie Tucker, M.T., for a certificate to practice massage therapy in Ohio is DENIED.

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


Lance A. Talmage, M.D.
Secretary

(SEAL)

October 14, 2009
Date

2009 SEP -4 PM 2: 52

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of

*

Case No. 09-CRF-005

Jennifer Marie Tucker, M.T.

*

Hearing Examiner Davidson

Respondent.

*

PROPOSED FINDINGS AND PROPOSED ORDER

Basis for the Review

Notice of Opportunity for Hearing: In a letter dated January 14, 2009 [Notice], the State Medical Board of Ohio notified Jennifer Marie Tucker, M.T., that it proposed to determine whether or not to grant her September 2006 application for a certificate to practice massage therapy and whether discipline was otherwise appropriate. The Board's proposed action was based on allegations including the following: that Ms. Tucker had attended a 72-hour evaluation at Glenbeigh Hospital in December 2008 to determine whether she is impaired in her ability to practice massage therapy according to acceptable and prevailing standards of care under Ohio Revised Code Section [R.C.] 4731.22(B)(26); that the examination resulted in a finding that Ms. Tucker is impaired; that treatment had been recommended in accordance with the Board's rules; and that the Board had no information that Ms. Tucker had commenced the recommended treatment. (Ex. 1 at 35; Ex. 6A)

The Board alleged that Ms. Tucker suffers from an "[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 language is used in R.C. 4731.22(B)(26). Further, the Board notified Ms. Tucker that she was entitled to a hearing if requested in writing within 30 days of the Notice's mailing. (Ex. 1 at 35-37; Ex. 6A)

No Request for Hearing from the Respondent: On January 15, 2009, the Board mailed its Notice to Ms. Tucker at her most recent address of record by certified mail, return receipt requested. In a sworn affidavit signed March 5, 2009, the Board's Public Services Administrator attested that the Board had not received a hearing request from Ms. Tucker. (Ex. 1)

Request for Proposed Findings and Proposed Order. In a memorandum dated March 10, 2009, the Public Services Administrator requested that the Hearing Unit review the evidence as provided and prepare Proposed Findings and a Proposed Order ("PFPO"). (Ex. 4) However, the package of evidence did not include a certified-mail receipt showing the date when the Notice had been served on Ms. Tucker, commencing the running of her thirty days to request a hearing. Accordingly, the Chief Hearing Examiner requested copies of the certified-mail receipt. On June 22, 2009, a copy was provided, documenting service of the Notice on January 20, 2009. (Exs. 5-6) The PFPO request was deemed to be submitted as of June 22, 2009.

Evidence Examined

Exhibit 1: Affidavit of the Public Services Administrator for the Board, signed March 5, 2009, attesting that, as of that date, the Board had not received a hearing request from Ms. Tucker.

Exhibit 1A, an additional affidavit authenticating documents maintained by the Board regarding Ms. Tucker:

Notice of Opportunity for Hearing dated May 14, 2008, Case No. 08-CRF-068, based on a failure to attend a Board-ordered examination. [This is an earlier notice, not the Notice in the present action.]

Entry of Order dated October 8, 2008, Case No. 08-CRF-068, ordering that the impairment examination shall be rescheduled. Two documents were attached:

Report and Recommendation of the Hearing Examiner, Case No. 08-CRF-068, filed September 4, 2009.

Excerpts from the Board's draft minutes of October 8, 2008, with regard to Case No. 08-CRF-068.

Notice of Opportunity for Hearing, Case No. 09-CRF-005, dated January 14, 2009, based on the impairment examination in December 2008 (the Notice in the current action).

Exhibit 2: Affidavit of the Administrative Officer of the Board, confirming Ms. Tucker's address of record and providing copies of the following:

Exhibit 2A: Application for a Certificate to Practice Massage Therapy submitted by Ms. Tucker in February 2006.

Exhibit 2B: Application for a Certificate to Practice Massage Therapy submitted in September 2006. [Note: Social Security numbers had been redacted on the application copies provided. On some of the pages, it appears that the original copy had been highlighted in part, and the text on the provided copies is partially obscured.]

Exhibit 3: Affidavit of an Enforcement Attorney for the Board, attesting that the Board has not received any documentation that Ms. Tucker has entered into a treatment program, and authenticating the following documents:

Exhibit 3A: The Board's letter to Ms. Tucker dated October 15, 2008, notifying her of the rescheduled examination at Glenbeigh Hospital on December 1, 2008 (with a copy of the prior examination letter of March 2008).

Exhibit 3B: Letter from Chris Adelman, M.D., Medical Director of Glenbeigh, dated December 4, 2008, verifying that Ms. Tucker completed the examination, was diagnosed with alcohol dependence, and was found to be impaired, and recommending residential treatment in accord with the Board's requirements.¹

¹When Dr. Adelman wrote his letter in December 2008, the Board required 28 days of inpatient treatment for impaired applicants, regardless of whether the applicant sought a certificate to practice medicine or massage therapy. However, at its meeting in January 2009, the Board rescinded Rule 4731-16-02 and adopted a new Rule 4731-16-02 to allow intensive outpatient treatment for certain limited practitioners, including massage therapists. See Board Minutes, page 18214 (January 15, 2009). The new rule went into effect on April 30, 2009.

Exhibit 4: Memorandum dated March 10, 2009, requesting preparation of a PFPO report.

Exhibit 5: Memorandum dated June 22, 2009, providing copies of the certified-mail receipts showing service of the Notice in the present matter.

Exhibit 6: Certified-mail receipts and documentation from the U.S. Postal Service showing delivery of the Notice to Ms. Tucker on January 20, 2009.

Proposed Findings

1. In September 2006, Jennifer Marie Tucker submitted to the Board an application for a certificate to practice massage therapy, which remains pending.

This proposed finding is supported by the following evidence: Exs. 2, 2B.

2. In a letter dated March 4, 2008, the Board ordered Ms. Tucker to submit to a 72-hour examination to determine whether she is impaired pursuant to R.C. 4731.22(B)(26), based on information she had disclosed on her application. The examination was scheduled to begin on March 26, 2008, at Glenbeigh Hospital in Rock Creek, Ohio. Prior to the examination, Ms. Tucker notified the Board that there had been a delay in her receiving the examination order and that she was unable to attend due to her inability to make arrangements on short notice to pay for the examination, take leave from her job, and obtain 72-hour care for her children. She did not appear for the examination.

This proposed finding is supported by the following evidence: Ex. 1 at 11-13, 22, 26-30.

3. The Board issued a notice of opportunity for hearing dated May 14, 2008, which was based on Ms. Tucker's failure to attend the March 2008 examination. Ms. Tucker requested a hearing, which was held in July 2008. The Hearing Examiner filed a Report and Recommendation in September 2008, recommending that the Board give Ms. Tucker another opportunity to attend the impairment examination. The Board, at its meeting on October 8, 2008, adopted the recommendation and ordered that Ms. Tucker's examination be rescheduled. The Board's decision was incorporated into an Entry of Order dated October 8, 2008.

This proposed finding is supported by the following evidence: Ex. 1 at 3-34.

4. In a letter dated October 15, 2008, the Board notified Ms. Tucker of the rescheduled 72-hour inpatient examination at Glenbeigh commencing December 1, 2008. Ms. Tucker attended the examination as ordered.

This proposed finding is supported by the following evidence: Exs. 3, 3A, 3B.

5. In a letter dated December 4, 2008, Christopher Adelman, M.D., of Glenbeigh reported that, pursuant to the Board-ordered examination, Ms. Tucker was diagnosed with alcohol dependence and determined to be impaired in her ability to practice massage therapy according to acceptable and prevailing standards of care. Dr. Adelman recommended treatment in accord with the Board's rules.

This proposed finding is supported by the following evidence: Exs. 3, 3B. See, also, Section 4731-16-02, Ohio Administrative Code, as in effect prior to April 30, 2009.

6. Ms. Tucker has not entered a treatment program as recommended.

This proposed finding is supported by the following evidence: Exs. 3, 3B

7. Proposed Findings 4 through 6, above, support the conclusion that Ms. Tucker suffers from an “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,” as that language is used in R.C. 4731.22(B)(26).
8. Section 4731-16-02 of the Ohio Administrative Code [Rule 4731-16-02], sets forth requirements for treatment of impaired applicants and licensees. Effective April 30, 2009, Rule 4731-16-02(B) provides as follows:

(3) * * * [T]he impaired individual must demonstrate to the board that the individual can resume practice in compliance with acceptable and prevailing standards of care under the provisions of the individual’s certificate. Such demonstrations 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 the individual has successfully completed all required treatment, as follows:

(i) Except as provided in paragraph (B)(3)(a)(ii) of this rule, the required treatment shall include inpatient or residential treatment that extends a minimum of twenty-eight days with the following exception: If the individual has previously completed an inpatient or residential treatment program of at least twenty-eight days and maintained sobriety for at least one year following completion of that inpatient or residential treatment, the treatment required shall be determined by the treatment provider.

(ii) *If the impaired individual is a massage therapist or cosmetic therapist who does not meet the criteria set forth in paragraph (B)(3)(iii) of this rule, the required treatment shall include intensive outpatient treatment meeting the requirements of paragraph (A)(13) of rule 4731-16-08 of the Administrative Code.* The required intensive outpatient treatment must include a minimum of twenty treatment sessions over no less than five consecutive weeks with the following exception: If the massage therapist or cosmetic therapist has previously completed an intensive outpatient treatment program of at least twenty treatment sessions over no less than five consecutive weeks and has maintained sobriety for at least one year following completion of that intensive outpatient treatment, the treatment required shall be determined by the treatment provider.

(iii) If the impaired individual is a massage therapist or cosmetic therapist who was investigated by the board for possible impairment as part of a previous application for or while holding any certificate issued by the board other than a

certificate to practice massage therapy or cosmetic therapy, the required treatment shall be in compliance with paragraph (B)(3)(a)(i) of this rule.

(b) Evidence of continuing full compliance with an aftercare contract that meets the requirements of rule 4731-16-10 of the Administrative Code, and with any consent agreement or order of the board then in effect;

(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making such assessments and shall describe the basis for this determination. A physician who is the medical director of a treatment provider approved under section 4731.25 of the Revised Code and this chapter of the Administrative Code may perform such an assessment without prior board approval.

Analysis

Given the evidence during the July 2008 hearing that Ms. Tucker is a single mother with two young children and a low income, the Hearing Examiner is not surprised that Ms. Tucker did not commence 28 days of inpatient treatment in December 2008. The residential treatment is not only expensive, but also would have required Ms. Tucker to miss four weeks of work and to secure four weeks of care for her children, one of whom is under school-age.

However, on April 30, 2009, a change in the law became effective. Under Rule 4731-16-02, as adopted in 2009, an impaired applicant for a massage-therapy certificate is no longer required to complete 28 days of inpatient treatment. Instead, the law allows a program of intensive outpatient [IOP] treatment for massage therapists. This new law should be applied to Ms. Tucker, allowing her to complete IOP treatment rather than inpatient treatment.

The record reflects that Ms. Tucker has demonstrated honesty and a willingness to comply with the Board's instructions and requirements. On her application, she disclosed her impairment-related court actions. The evidence during the 2008 hearing was persuasive that Ms. Tucker has made significant sacrifices and worked diligently to improve her life and her children's lives by attending and graduating from massage-therapy school. When the Board gave Ms. Tucker a second chance to attend the impairment examination, she did what was necessary to attend the three-day examination.

Based on Ms. Tucker's demonstrated willingness to comply with Board's requirements, the Hearing Examiner was initially inclined to recommend that the Board grant the massage-therapy certificate with an immediate suspension until such time as Ms. Tucker successfully completes an IOP program under Rule 4731-16-02 and has met other terms and conditions related to impairment (and provided that she otherwise meets all the requirements for licensure).

In prior cases, that is what the Board has done. In *Matter of Downey*, Case No. 08-CRF-022 (June 12, 2009), the Board addressed a situation in which a massage-therapy applicant attended a 72-hour examination, was found to be impaired, and did not participate in residential treatment. Likewise, in *Matter of McComb*, Case No. 08-CRF-091 (July 8, 2009), a massage-therapy applicant

attended a 72-hour evaluation, was found to be impaired, and did not obtain the 28 days of inpatient treatment that was mandatory at the time of the evaluation. In both cases, the Board granted the certificate subject to terms and conditions including an immediate suspension and a reinstatement conditioned upon completion of the intensive outpatient treatment.

However, the problem with such an order in the present action is that the Hearing Examiner does not have information as to whether Ms. Tucker is ready and willing to comply with the terms and conditions of an impairment-related suspension. Because Ms. Tucker did not request a hearing, the Hearing Examiner does not know whether she is interested in complying with the array of monitoring activities that the Board requires during a standard impairment-based suspension, such as participating in and paying for as many as four urine screens per month during the period of suspension. As a fundamental issue, the Hearing Examiner does not know whether Ms. Tucker is committed to abstaining from all use of alcohol in order to obtain a massage-therapy certificate.

The lack of post-diagnosis information from Ms. Tucker results in uncertainty with regard to whether it would be beneficial to her, or desirable to her, for the Board to grant the requested certificate pursuant to an immediate suspension with conditions for reinstatement including the IOP treatment. If Ms. Tucker is *not* interested in participating in Board-supervised recovery, the terms and conditions of a suspension could result in immediate and pervasive violations.

In contrast, one benefit of a non-permanent denial is that Ms. Tucker may choose to reapply for a massage-therapy certificate in the future, at a time when she is ready to comply fully with all the requirements of treatment and monitoring. In considering this alternative, the Hearing Examiner is mindful that this option would require Ms. Tucker to pay the full application fees upon reapplying for licensure.

On balance, the Hearing Examiner believes that a non-permanent denial is more appropriate in the circumstances presented here. A new application in the future would signal Ms. Tucker's readiness to participate in the required treatment and monitoring.

PROPOSED ORDER

It is hereby ORDERED that:

The application of Jennifer Marie Tucker, M.T., for a certificate to practice massage therapy in Ohio is DENIED.

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



Patricia A. Davidson
Hearing Examiner

State Medical Board of Ohio

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



Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

January 14, 2009

Case number: 09-CRF- 005

Jennifer Marie Tucker
7655 Mt. Eaton Road, P.O. Box 122
Marshallville, OH 44645

Dear Ms. Tucker:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice massage therapy, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about September 14, 2006, you caused to be submitted to the Board an application for a certificate to practice massage therapy [2006 Application], which remains pending.

In a letter dated March 4, 2008, the Board ordered you to submit to an examination. The examination was scheduled to begin on Wednesday, March 26, 2008, at 10:00 a.m. at Glenbeigh Hospital, 2863 St. Rt. 45, Rock Creek, Ohio. You did not appear for that examination, although you received the March 4, 2008 letter on or about March 17, 2008. Prior to the examination, you called the Board and indicated that you were unable to attend the examination due to finances, inability to take leave from your job and inability to obtain child care.

Based on your failure to appear for the examination, in a letter dated May 14, 2008, the Board gave you notice that your failure to submit to the examination constituted an admission of the allegations against you unless your failure to appear was for circumstances beyond your control. In that same letter, the Board afforded you an opportunity for a hearing to determine whether your failure to appear was for circumstances beyond your control.

In response to the May 14, 2008 letter, you requested a hearing. The hearing was held on July 31, 2008. In a Report and Recommendation issued on or about

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September 4, 2008, the Board's Hearing Examiner recommended that the examination be rescheduled.

At its meeting on October 8, 2008, the Board adopted the Hearing Examiner's recommendation and ordered that your examination be rescheduled. The Board's decision was incorporated into an Entry of Order dated October 8, 2008, and issued to you on or about that same date.

By letter dated October 15, 2008, 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 rescheduled 72-hour inpatient examination commencing on December 1, 2008, to determine if you are in violation of Section 4731.22(B)(26), Ohio Revised Code. The Board's determination was based upon convictions for multiple alcohol-related offenses.

- (2) As a result of the rescheduled examination, by letter dated December 4, 2008, Christopher Adelman, M.D., of Glenbeigh, opined that you were diagnosed with alcohol dependence, you were determined to be impaired in your ability to practice massage therapy according to acceptable and prevailing standards of care, and twenty-eight days of inpatient treatment was recommended. Further, the Board has not received information that you have entered inpatient treatment.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) and (2) 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.

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

register or reinstate your certificate to practice massage therapy or to reprimand you or place you on probation.

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,



Lance A. Talmage, M.D.

Secretary

LAT/DPK/flb

Enclosures

CERTIFIED MAIL #91 7108 2133 3934 3487 0800

RETURN RECEIPT REQUESTED

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov



October 8, 2008

Jennifer Marie Tucker, M.T.
7655 Mt. Eaton Road
Marshallville, OH 44645

RE: Case No. 08-CRF-068

Dear Ms. Tucker:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Patricia A. Davidson, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 8, 2008, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of 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

A handwritten signature in black ink that reads "Lance A. Talmage, M.D." in a cursive style.

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

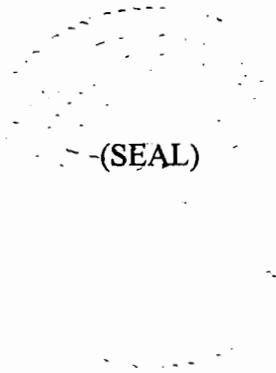
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RETURN RECEIPT REQUESTED

Mailed 10-10-08

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Patricia A. Davidson, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 8, 2008, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Jennifer Marie Tucker, M.T., Case No. 08-CRF-068, 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.



A handwritten signature in black ink, which appears to read "Lance A. Talmage, M.D.", is written over a horizontal line.

Lance A. Talmage, M.D.
Secretary

October 8, 2008
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

* CASE NO. 08-CRF-068

JENNIFER MARIE TUCKER, M.T.

*

ENTRY OF ORDER

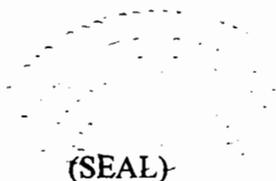
This matter came on for consideration before the State Medical Board of Ohio on October 8, 2008.

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

It is hereby ORDERED that:

The impairment examination of Jennifer Marie Tucker, M.T., pursuant to R.C. 4731.22(B)(26), which was originally scheduled to commence on March 26, 2008, shall be rescheduled at the Board.

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



A handwritten signature in black ink, which appears to read "Lance A. Talmage, M.D.", is written over a horizontal line.

Lance A. Talmage, M.D.
Secretary

October 8, 2008
Date

2008 SEP -4 P 1: 33

**REPORT AND RECOMMENDATION
IN THE MATTER OF JENNIFER MARIE TUCKER, M.T.
Case No. 08-CRF-068**

The Matter of Jennifer Marie Tucker, M.T., was heard by Patricia A. Davidson, Hearing Examiner for the State Medical Board of Ohio, on July 31, 2008.

INTRODUCTION

Basis for Hearing

In a notice of opportunity for hearing dated May 14, 2008, the State Medical Board of Ohio notified Jennifer Marie Tucker, M.T., that, based on a legal presumption under Ohio Revised Code Section [R.C.] 4731.22(B)(26), the Board had found that she was impaired in 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.” The Board stated, among other things, that the presumption of impairment was based on Ms. Tucker’s failure to attend a Board-ordered examination. (State’s Exhibit [St. Ex.] 1)

In its letter, the Board explained that Ms. Tucker could rebut this presumption by proving that her failure to submit to the examination was caused by circumstances beyond her control, which, if established, would merit the rescheduling of her examination. The Board further explained that, if it were determined that Ms. Tucker’s failure to submit to the examination was caused by circumstances within her control, that determination would “render the legal presumption of impairment conclusive” and result in a determination by the Board to limit, revoke, permanently revoke, suspend, refuse to register or reinstate [her] certificate to practice massage therapy, or to reprimand [her] or place [her] on probation based upon [her] legally admitted impairment.” (St. Ex. 1)

On June 16, 2008, the Board received Ms. Tucker’s written request for hearing. (St. Ex. 1)

Appearances

Nancy H. Rogers, Attorney General, and Karen A. Unver, Assistant Attorney General, for the State.

The Respondent, Jennifer Marie Tucker, M.T., represented herself.

EVIDENCE EXAMINED

Witnesses

Jennifer Marie Tucker, M.T.

Exhibits

State’s Exhibits

State’s Exhibit 1: Procedural exhibits.

State's Exhibit 2: Documents maintained by the Board regarding Ms. Tucker, including copies of letters from the Board to Ms. Tucker and to Glenbeigh Health Sources.

State's Exhibit 3: Letter dated March 26, 2008, from Glenbeigh Health Sources to Board staff.

State's Exhibit 4: Additional documents maintained by the Board regarding Ms. Tucker, including her letter to the Board in October 2007 and other materials relating to her license application. (Social Security numbers redacted) ¹

Respondent's Exhibits

Respondent's Exhibit A: Earnings statements for Ms. Tucker for pay periods beginning March 13, 2008, and ending June 18, 2008.

Respondent's Exhibit B: Ms. Tucker's rental agreement for the period beginning March 1, 2008.

Respondent's Exhibit C: Documents from the Wayne County Department of Job and Family Services mailed in July 2008 regarding benefits to which Ms. Tucker and her children were entitled. (Names of children redacted)

Respondent's Exhibit D: Medical records for care Ms. Tucker received from March 26 to March 27, 2008.

Respondent's Exhibit E: A letter written by Ms. Tucker's father on her behalf.

SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony were reviewed and considered by the Hearing Examiner, although all the evidence may not be referenced below.

2006 Application for a Certificate to Practice Massage Therapy

1. On February 17, 2006, Jennifer Marie Tucker, M.T., submitted an application to the Board for a certificate to practice massage therapy in Ohio. On September 14, 2006, she applied for reexamination in order to retake the basic science portion of the licensure examination. (St. Ex. 4 at 21-48)
2. On her application, Ms. Tucker stated that she was born in 1982, graduated from high school in 2000, and received her certificate as a "state tested nurse's aide" in 2001. She stated that she had begun massage-therapy training in August 2002 but discontinued the program in November 2003 because she could not afford childcare and transportation. She later returned to school, however, and received her massage-therapy diploma in May 2006. (St. Ex. 2 at 34-36, 39, 46)

¹ Note: The procedural exhibits include affidavits that the Board sent to Ms. Tucker with her notice of opportunity for hearing; however, these affidavits were not offered into evidence as part of the hearing record for substantive consideration by the Hearing Examiner.

3. Ms. Tucker is married and has two children, although she is separated from her husband. She stated that, since August 2004, she has worked as a nurse's aide at Magnolia Care and Rehabilitation Center. (Tr. at 30-31; St. Ex. 4 at 36; (Resp. Ex. A)
4. In her February 2006 application, Ms. Tucker answered "Yes" to the following questions:
 11. Have you ever been convicted or found guilty of a violation of any law, regardless of the legal jurisdiction in which the act was committed, other than a minor traffic violation?
 15. Have you ever * * * been summoned into court as a defendant or had any lawsuit filed against you (other than a malpractice suit)? If yes, submit copies of all relevant documentation, such as police reports, *certified* court records and any institutional correspondence and orders.

(St. Ex. 4 at 39) Ms. Tucker wrote beneath each of these questions that she was "still waiting on documentation." (St. Ex. 4 at 39)

5. The Board received documents relating to Ms. Tucker's arrests and convictions in May 2006, and Ms. Tucker provided a narrative explanation on October 19, 2007. (St. Ex. 4 at 1-20) The Board obtained further court records in January 2008. (St. Ex. 2 at 6-41)

The Board-Ordered Examination

6. In a letter dated March 4, 2008, the Board notified Ms. Tucker that it had reason to believe that she was impaired in 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," as that language is used in R.C. 4731.22(B)(26). The Board informed her that she was required to submit to an impairment examination. (St. Ex. 2 at 3-5)

The Board stated that its determination was based on four alcohol-related arrests and convictions between March 2004 and April 2006, which it described in detail. (St. Ex. 2 at 3-4) In its letter, the Board also stated:

* * * This examination will take place at Glenbeigh Health Sources, 2863 St. Rt. 45, Rock Creek, Ohio 44084, (440) 563-3400. You must contact Cathy Chambers at 1-800-234-1001, extension 1014 immediately. You are to report to Glenbeigh Health Sources, on **Wednesday, March 26, 2008, at 10:00 a.m.** for a 72-hour in-patient evaluation.

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 \$1800. You must present a certified check or money order in this amount 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. (Emphasis in original)

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.

(St. Ex. 2 at 4-5)

7. The Board's letter was sent by certified mail to Ms. Tucker in Marshallville, Ohio. (St. Ex. 2 at 3) However, there was a delay of several days in her receiving the letter. (Tr. at 23-24, 45, 47)

The letter was forwarded by the U.S. Postal Service to a temporary address that Ms. Tucker had previously filed with the Postal Service. She explained that, in February 2008, her living arrangements had been uncertain, and she had therefore filed a new mailing address with the Postal Service, using her father's address. Ms. Tucker explained that she had been living at her mother's apartment, house-sitting while her mother was in Iraq, and that, when her mother returned, they had shared the rent for a period of time. However, her mother had decided to give up the apartment as of March 1, 2008, and Ms. Tucker, uncertain as to whether she would be taking over the lease on that property, had filed a temporary mailing address with the Postal Service, using her father's address, to make sure there was no interruption in her receiving mail. (Tr. at 23-24, 45, 47)

8. After the letter was forwarded by the Postal Service, Ms. Tucker received it on March 17, 2008. (Tr. at 23-24)
9. Ms. Tucker stated that she contacted the Enforcement Attorney [EA] who had signed the letter for the Board. She testified that she had told him "that, with the short notice, I could not come up with the \$1,800 to do the program." She stated that she had also explained that she did not have enough time to arrange for childcare. Ms. Tucker testified that she had wanted to comply and had asked whether there was anything she could do, whether financial aid was available, whether the examination could be rescheduled, and so forth. (Tr. at 9, 24-26, 36, 42-43, 55)
10. Ms. Tucker testified that the EA gave her no options but told her to do the best she could to obtain the money and find childcare, and to call him back. She testified that she had called him back and explained that she had not yet obtained the necessary money and childcare. Ms. Tucker stated that the EA had told her that he was going on vacation and needed to know by March 19 whether or not she was going to attend the examination on March 26, 2008. (Tr. at 24-25)
11. Ms. Tucker testified that, on March 20, she had called the EA again and told him that she had not come up with a solution regarding childcare or examination fees, but would call by Monday, March 24, if things changed. (Tr. 24-25)
12. Ms. Tucker stated that she received a letter from the EA stating that he had requested a rescheduling of the examination on her behalf, but that the Board had denied it. (Tr. at 25-26)

13. Ms. Tucker stated that, on Monday, March 24, she had contacted Glenbeigh and spoken with a person named Rick. She stated that she had asked him whether she could reschedule the examination, but he had said it was up to the EA who had scheduled the examination. She testified that she learned during the conversation with Rick that Glenbeigh would accept health insurance, which no one had previously told her. She inquired further about insurance, and learned that Glenbeigh would accept Medical Mutual, her insurance provider. She testified that it was her understanding from Rick that Glenbeigh would bill the insurer for the examination and that she would then be required to pay the remainder. She testified, however, that this information did not allow her to attend the examination on March 26, because it was too late by then to arrange for childcare. Ms. Tucker testified that she had told Rick at Glenbeigh that she would not be able to attend the examination on May 26, and he had said he would put a note in her file. She testified that, if she had been given more time to make arrangements, she believes she could have attended the Glenbeigh examination. She stated that she had tried to arrange childcare but was unable to do so, and that she would have needed about one month to make all the necessary arrangements. (Tr. at 26, 34-36, 39, 42-44)

Additional Testimony regarding Ms. Tucker's Employment Circumstances

14. Ms. Tucker stated that, in addition, she needed to give sufficient notice to her employer before taking three days off from work. She explained that she would need to give at least three weeks' notice, because the work schedules at Magnolia Village cover a two-week period and are posted a week before the period begins. Ms. Tucker further testified that she had had a second job at that time (in late March 2008), and that the examination would have interfered not only with her night shift on Wednesday night at Magnolia Village, but also with the other job on Thursday and Friday (March 27-28). At the time of the hearing, Ms. Tucker stated that she was working only at Magnolia Village. (Tr. at 43-44)
15. Ms. Tucker's earnings statements from Magnolia Village show that, in late March 2008, she was earning \$10.50 per hour and worked 44 hours in a two-week period. It appears that her take-home pay for the two-week period ending March 26, 2008, was \$383.48. Earnings statements for subsequent two-week periods are similar, showing some fluctuations in total hours and compensation, ranging from \$263 for two weeks to \$475. (Resp. Ex. A)

Additional Testimony regarding Time Constraints and Her Financial Situation

16. Ms. Tucker testified that, even if she had received the Board's March 4 letter earlier, she would still have had only three weeks to make arrangements for childcare and paying the fees, which was not enough time under the circumstances. She explained that she works three nights per week at Magnolia Village as a nurse's aide and takes care of her children during the day. She explained that she works Sundays, Mondays and Wednesdays from 10:00 p.m. to 6:00 a.m., and that her children, a two-year-old son and eight-year-old daughter, stay with their grandfather when she works at night, although she shares custody of her daughter, who sometimes stays with her father. Ms. Tucker stated that the days scheduled for the examination, March 26 to March 28, were during the spring break from school, so she had both children all day. She explained that she goes to work at 10:00 p.m. and arrives home after 6:00 a.m., when she takes a nap before her son wakes up, and then

she is up until he takes another nap in the afternoon. She said that she does “not get very much sleep.” Ms. Tucker provided earnings statements showing her pay and specific hours of work. (Tr. at 30-31; Resp. Ex. A)

17. Ms. Tucker stated that the father of her infant son does not take part in his life and would not take care of him for three days. (Tr. at 33, 36) However, Ms. Tucker said that the children’s grandfather, her father, helps her with the children when she has to work or attend an appointment. (Tr. at 33-34; Ex. E)
18. Ms. Tucker indicated that she does not currently live with her husband but cannot obtain a divorce until she obtains the money to file the papers. She stated that her husband provides health insurance for her and the children until they are divorced, and she also indicated that he pays some child support for the baby. (Tr. at 39-40)
19. Ms. Tucker also provided a copy of her rental agreement, showing that she pays \$400 per month for herself and two children, which she said takes up most of her income. She further testified that she also pays for electricity, telephone, and car expenses such as insurance. (Tr. at 32; Ex. B)
20. In addition, Ms. Tucker provided a statement from the Wayne County office of the Department of Job and Family Services, stating that she was approved for food stamps and Medicaid for herself and the children. She stated, “I do the best that I can to get by from day to day.” (Tr. at 32; Ex. C)

Ms. Tucker’s Testimony Regarding Her Illness

21. Ms. Tucker testified that she had experienced substantial stress regarding the impending examination, trying to find childcare and money for the fees, and that she had become ill starting on Tuesday night, March 25. She stated that she ultimately developed sinusitis and bronchitis. She provided medical records to document her illness, and stated that she had “ended up on a Z pack for four days.” (Tr. at 26, 32; Ex. D) Ms. Tucker stated, however, that although she had been sick during the time of the scheduled examination, her reasons for not attending the examination were primarily that she was not able to secure the necessary money and childcare. (Tr. at 9)

Letter from Ms. Tucker’s Father

22. Ms. Tucker’s father wrote a letter on her behalf, stating that he tries to help his daughter as much as possible, providing babysitting on a limited basis and other things. He stated that his daughter is a single mother on a limited income, and that she “barely makes ends meet, but busts herself to make sure both kids needs are taken care of before herself.” He further stated that he was unable to help her financially and could not take care of an active two-year-old boy. He stated that the toddler required constant attention when awake, to assure that he did not hurt himself. In conclusion, he stated: “Jenny is doing the best she can. I’m very proud of her. She has turned her life around in many different ways, all for the good.” (Resp. Ex. E)

Ms. Tucker's Request to the Board

23. Ms. Tucker asks the Board to understand her situation and give her a chance. She stated that being a massage therapist is something she has worked very hard to achieve for five years. She stated that she had quit the massage-therapy program at one point because she could not afford it, but that she had persevered and completed her training, even though it took her five years to complete a two-year program. With respect to the examination at Glenbeigh, Ms. Tucker stated that her nonattendance was not due to a lack of desire to go but due to a "lack of resources." She stated that becoming a massage therapist means a lot to her. She said it would be difficult to make the arrangements for the examination, but not impossible. (Tr. at 37, 47-48)
24. Ms. Tucker stated that she understands that finances and childcare are things she can control, but she explained that, due to the short amount of time before the examination was scheduled to begin, it was not within her control to make the necessary arrangements in these circumstances. She stated that she has no family members who could have taken her children for three days on short notice, and no one who could give her money on short notice. She testified: "There are people that help me, if given enough notice. So it was more of a time constraint and trying to do it in a week-and-a-half [or] two weeks' notice, that held me back." She explained that she wanted to comply but needed "a little bit more notice and time * * *." Finally, Ms. Tucker stated: "This is something that I really want, and I'm willing to do whatever it takes to do it, but I just need more time." (Tr. at 55-56)

FINDINGS OF FACT

1. In February 2006, Jennifer Marie Tucker submitted to the Board an application for a certificate to practice massage therapy, and she reapplied in September 2006. The application is currently pending.
2. By letter dated March 4, 2008, the Board notified Ms. Tucker of its determination that it had reason to believe that she has an "impairment" as that term is used in Ohio Revised Code Section [R.C.] 4731.22(B)(26). The Board ordered her to attend a 72-hour inpatient examination at Glenbeigh Health Sources, a board-approved treatment provider, beginning on March 26, 2008, to determine whether she is impaired. The Board provided the address, time, and location for the examination.

The Board explained that its determination had been based on arrests and convictions in which alcohol had played a part, and the Board identified and described these events in detail. In the March 2008 letter, the Board further notified Ms. Tucker, among other things, that failure to submit to an examination as directed constitutes an admission of the allegations against her unless the failure is due to circumstances beyond her control.

3. On March 17, 2008, Ms. Tucker received and signed for the Board's letter dated March 4, 2008.

4. Ms. Tucker contacted the Board and Glenbeigh regarding the examination, and explained that she was unable, in the limited time remaining before the examination was scheduled to begin, to make all the necessary arrangements to attend the three-day examination starting on March 26, 2008.
5. Ms. Tucker did not attend the examination as scheduled.
6. At the hearing, Ms. Tucker provided additional information regarding her inability to secure the money for the impairment examination, arrange for childcare, and obtain leave from work, in the amount of time available before the examination was scheduled to begin.

CONCLUSIONS OF LAW

1. R.C. 4731.22(B) provides, in pertinent part:

The board * * * shall * * * limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

* * *

(26) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.

* * * By filing an application for or holding a certificate to practice under this chapter, 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 to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications.

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for certification to practice suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is chosen by the board.

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. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's certificate or deny the individual's

application and shall require the individual, as a condition for initial, continued, reinstated, or renewed certification to practice, to submit to treatment.

2. Rule 4731-16-01(A) of the Ohio Administrative Code defines the term “impairment” as used in R.C. Chapter 4731:

(A) “Impairment” means impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice. Impairment includes inability to practice in accordance with such standards, and inability to practice in accordance with such standards without appropriate treatment, monitoring or supervision.

Further, Rule 4731-16-02 provides in part:

(A) Should the board have reason to believe that any licensee or applicant suffers from impairment, as that term is used in * * * division (B)(26) of section 4731.22 of the Revised Code, * * * it may compel the individual to submit to a mental or physical examination, or both. Such examinations shall be undertaken by an approved treatment provider designated by the board. The notice issued ordering the individual to submit to examination shall delineate acts, conduct or behavior committed or displayed which establish reason to believe that the individual is impaired. Failure to submit to examination ordered by the board constitutes an admission of impairment unless the failure is due to circumstances beyond the individual’s control.

(B) * * * [T]he following general pattern of action shall be followed:

(1) Upon identification by the board of reason to believe that a licensee or applicant is impaired it may compel an examination or examinations as set forth in paragraph (A) of this rule. The examination must include monitoring in an inpatient setting for at least seventy-two hours, and must meet all other requirements of rule 4731-16-05 of the Administrative Code.

3. In this matter, the Board lawfully ordered Jennifer Marie Tucker, M.T., pursuant to R.C. 4731.22(B)(26), to attend a 72-hour inpatient examination to assess impairment.
4. Ms. Tucker’s ability to pay for the impairment examination, arrange for childcare, and obtain leave from her employment, constitute circumstances that, in general, are within her control. However, Ms. Tucker has established that, from the time she received the Board’s letter on March 17, 2008, to the date of the scheduled examination on March 26, 2008, her inability to make financial and childcare arrangements, and to arrange for leave from employment, was beyond her control.
5. Ms. Tucker has therefore demonstrated circumstances that merit the rescheduling of her examination.

* * * * *

The costs associated with becoming a licensed massage therapist in Ohio must be borne by the massage therapist, including costs for schooling, fees for filing the application, and, where necessary, a Board-ordered examination. At hearing, Ms. Tucker accepted that it is her responsibility to bear these costs, and she acknowledged that it is possible for her to do so.

However, Ms. Tucker testified, and the Hearing Examiner was persuaded, that, under the circumstances presented in this matter, it was not within her control to obtain funds, arrange childcare, and obtain leave from work in the short period of time before the examination was scheduled to begin. A factor considered by the Hearing Examiner was that the delay in receiving the notice of examination was not caused by unreasonable or neglectful conduct on Ms. Tucker's part. Her new address was uncertain, and her change of address was temporary, which explains the lack of notice to the Board of a change of address. She had duly notified the Postal Service of an address where she could receive mail, and she did in fact receive and sign for the notice within two weeks of its mailing. Accordingly, the Hearing Examiner concludes that Ms. Tucker has established a basis for granting her a second chance to attend the required examination.

PROPOSED ORDER

It is hereby ORDERED that:

The impairment examination of Jennifer Marie Tucker, M.T., pursuant to R.C. 4731.22(B)(26), which was originally scheduled to commence on March 26, 2008, shall be rescheduled at the Board's direction.

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



Patricia A. Davidson
Hearing Examiner

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

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EXCERPT FROM THE DRAFT MINUTES OF OCTOBER 8, 2008

REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Varyani announced that the Board would now consider the Proposed Findings and Proposed Orders appearing on its agenda. He asked whether each member of the Board had received, read and considered the hearing record; the findings of fact, conclusions and proposed orders; and any objections filed in the matters of: Lee C. D. Hang-Fu, M.D.; Jason R. Molder, M.T.; Carolyn Johnson, M.D.; Ravi Kumar Jonnalagadda, M.D.; Mehrdad Nikfarjam, M.D.; Steven M. Oppenheimer, M.D.; Robert Rowan Summers, D.O.; Jennifer Marie Tucker, M.T.; and Mani A. Vannan, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Madia	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Steinbergh	- aye
	Dr. Varyani	- aye

Dr. Varyani 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. Suppan	- aye
	Dr. Madia	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye

Dr. Steinbergh - aye
Dr. Varyani - aye

Dr. Varyani 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. They may, however, participate in the matter of Dr. Khatibi, as that case is not disciplinary in nature and concerns only the doctors' qualifications for licensure. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

The original Proposed Findings and Proposed Orders shall be maintained in the exhibits section of this Journal.

.....

JENNIFER MARIE TUCKER, M.T.

.....

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF JENNIFER MARIE TUCKER, M.T. DR. EGNER SECONDED THE MOTION.

.....

Dr. Amato left the meeting during the previous discussion.

A vote was taken on Dr. Steinbergh's motion to approve and confirm:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Madia	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Steinbergh	- aye
	Dr. Varyani	- aye

The motion carried.



State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
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May 14, 2008

Case number: 08-CRF- *068*

Jennifer Marie Tucker
7655 Mt. Eaton Road
P.O. Box 122
Marshallville, OH 44645

Dear Ms. Tucker:

Due to your failure to submit to an examination on March 26, 2008, 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 March 4, 2008, and sent to you by certified mail [March 4, 2008 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 September 14, 2006, you caused to be submitted to the Board an application for a certificate to practice massage therapy [2006 Application], which remains pending. You failed to provide written explanations for your affirmative answers to questions on the 2006 Application until on or about October 19, 2007.

Mailed 5-15-08

By letter dated March 4, 2008, 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:

- (a) On or about March 6, 2004, you were arrested in Barberton, Ohio, for violation of Section 4511.19(A)(4), Ohio Revised Code, Operating Vehicle Under the Influence of Alcohol or Drugs [OVI], Section 4511.19(A)(1), Ohio Revised Code, OVI, 4510.11(A), Driving Under Suspension or in Violation of License Restriction; Ohio Revised Code, and Section 331.34(A), Failure to Control; Weaving; Full Time and Attention, Codified Ordinances of the City of Barberton, Ohio. The facts underlying the charges were that, shortly prior to your arrest, the vehicle you were driving struck a parked vehicle. The police report indicates that at the time of your arrest you exhibited a Blood Alcohol Content of 0.208, glassy red eyes, slow motor movements, unsteady gait, staggering, loss of balance, a strong odor of alcohol and an inability to complete a recitation of the alphabet beyond the letter "G."

On or about March 9, 2004, in the Barberton Municipal Court, you pled no contest to and were found guilty of OVI in violation of Section 4511.19(A)(4), Ohio Revised Code, with all other charges dropped. You were, *inter alia*, sentenced to one hundred and eighty days in jail, of which one hundred and seventy four days were suspended and the remaining six days were to be served at Oriana House. You were further fined \$300 and ordered to pay \$94 in costs.

- (b) On or about September 4, 2004, you were arrested in Rittman, Ohio, for violations of Section 2917.11(B)(1), Ohio Revised Code, Disorderly Conduct, and Section 2921.33(A), Ohio Revised Code, Resisting Arrest. The police report indicates that at the time of your arrest you exhibited stumbling, unsteady gait, watery and bloodshot eyes, slurred speech and a strong odor of alcohol.

On or about January 24, 2005, in the Wayne County Municipal Court, you pled no contest to and were found guilty of Section 2921.33(A), Resisting Arrest, Ohio Revised Code. You were sentenced to six months community control, fined \$300 and ordered to perform eighty hours of community service. On or about August 9, 2005, the court determined that probable cause exists to determine that you had violated the terms of your community control and scheduled a show cause hearing for October 21, 2005, due to

your March 6, 2005 arrest for Disorderly Conduct, to be more completely described below. On or about October 21, 2005, the court continued your community control for one year and further required you to complete an additional forty hours of community service.

- (c) On or about March 6, 2005, you were arrested in Wadsworth, Ohio for violation of Section 2919.25(A), Ohio Revised Code, Domestic Violence. The police report indicates that at the time of your arrest you appeared to be very intoxicated.

On or about July 6, 2005, in Wadsworth Municipal Court located in Wadsworth, Ohio, you pled no contest to and were found guilty of Section 2917.11(A), Disorderly Conduct, Ohio Revised Code. You were sentenced to thirty days in jail, said sentence suspended and fined \$100.

- (d) On or about November 27, 2005, you were arrested in Wadsworth, Ohio for violation of Section 2919.25(A), Domestic violence, Ohio Revised Code. The police report indicates that at the time of your arrest you appeared to be intoxicated.

On or about April 5, 2006, in Wadsworth Municipal Court located in Wadsworth, Ohio, you pled no contest to and were found guilty of Section 2919.25(A), Domestic Violence, Ohio Revised Code. You were sentenced to one hundred and eighty days in jail, one hundred and twenty days of which were suspended, of which thirty days were to be served in house arrest, fined \$250 and order to complete domestic violence counseling.

- (2) The March 4, 2008 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 Health Sources, 2863 St. Rt. 45, Rock Creek, Ohio 44084, a Board-approved treatment provider, on March 26, 2008, at 10:00 a.m.

The March 4, 2008 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 is signed and dated March 17, 2008.

- (4) By letter dated March 26, 2008, the Board was notified that you failed to appear for the examination that the Board scheduled for you. Although you asserted that you were unable to appear for the examination that the Board scheduled for you due to your personal financial concerns, at no time did you establish that your failure to appear was due to any circumstances beyond your control. Accordingly, pursuant to Section 4731.22(B)(26), Ohio Revised Code, and in consideration of the affidavits of David P. Katko, 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 March 4, 2008 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.

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.

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,



Lance A. Talmage, M.D.
Secretary

LAT/DPK/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3934 3690 6033
RETURN RECEIPT REQUESTED

AFFIDAVIT

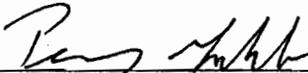
The State of Ohio
Franklin County, SS

I, Penny Grubb, 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 Chief of Licensure.
- 3) In such position, I am the responsible custodian of all licensure applications maintained by the Board pursuant to Chapter 4731., Ohio Revised Code.
- 4) I have this day carefully examined the licensure application submitted to the Board by Jennifer Marie Tucker.
- 5) Based on such examination, I have found the last known address of record of Jennifer Marie Tucker to be:

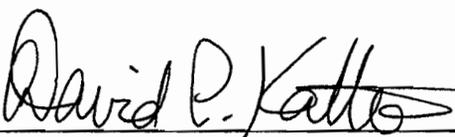
7655 Mt. Eaton Road, P.O. Box 122
Marshallville, OH 44645

- 6) Further, Affiant Sayeth Naught.



Penny Grubb, Chief
Licensure

Sworn to and signed before me, David P. Katko, Notary Public, this 24th
day of April, 2008.



Notary Public



DAVID P. KATKO, 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, David P. Katko, 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 complaint 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 Jennifer Marie Tucker, which resulted in the issuance of an order from the Board for Ms. Tucker to submit to an examination pursuant to Section 4731.22(B)(26), Ohio Revised Code.
- 5) A letter, which contained the above-referenced Board order and which is attached hereto and incorporated herein, ordered Ms. Tucker to submit to an 72-hour in-patient examination at Glenbeigh Health Sources, 2863 St. Rt. 45, Rock Creek, Ohio 44084, on Wednesday, March 26, 2008, at 10:00 a.m. Said order was sent certified mail on March 4, 2008 [March 4 letter] at Ms. Tucker's address of record, 655 Mt. Eaton Road, P.O. Box 122, Marshallville, OH 44645 [Marshallville address].
- 6) I received a voicemail message from Ms. Tucker on March 18, 2008, at approximately 1:00 p.m. I immediately obtained information from the United States Postal Service website that indicated that the March 4 letter had been forwarded to a new address, 100 Pleasant View Drive, Rittman, OH 44270 [Rittman address], on March 6, 2008, that a notice had been left at the new address on March 11, 2008, and that the March 4 letter was retrieved by Ms. Tucker on March 17, 2008. I then returned Ms. Tucker's call on March 18, 2008, at approximately 1:04 p.m. Ms. Tucker advised me that, regardless of when the evaluation was scheduled, she could not attend because: she did not have the \$1,800.00 to pay for the evaluation and did not believe that she could raise said money; she could not afford to take three days off work; and she could not find anyone to take care of her two children. Ms. Tucker advised me that she would definitely call me later on March 18, 2008, or, at the absolute latest, March 19, 2008. Having not received any call from Ms. Tucker by the close of business on March 19, 2008, I left a voicemail message for her on March 20, 2008, at approximately 9:28 a.m., advising that she had to call me back immediately with her answer and also providing her with the Board's facsimile number and advising her that she had to submit a written change of address to the Board immediately. I spoke with Ms. Tucker on March 20, 2008, at approximately 11:50 a.m. Ms. Tucker advised that the change of address was temporary for a few days and that her residence address remained the Marshallville address. Ms. Tucker did not provide any date certain for rescheduling the March 26, 2008, evaluation. After speaking with Ms. Tucker, I contacted the Board's Supervising Member and

advised him of her reasons for not being able to attend the March 26, 2008 evaluation. The Board's Supervising Member advised that he would not agree to rescheduling the evaluation. I drafted a letter to Ms. Tucker dated March 20, 2008, advising that she was still scheduled for the evaluation on March 26, 2008, and mailed said letter to Ms. Tucker at both her credential mail address, the Marshallville address, as well as the address to which the Board's March 4, 2008 letter had been forwarded, the Rittman address. A copy of the March 20, 2008 certified letter [March 20 letter] is attached hereto and incorporated herein.

- 7) On March 20, 2008, the Board received a certified mail return receipt showing that the March 4 letter to Ms. Tucker had been delivered to and signed for by Ms. Tucker at the address set forth in paragraph 6 above on March 17, 2008. A copy of the certified mail return receipt is attached hereto and incorporated herein.
- 8) On March 31, 2008, the Board received certified mail return receipts showing that the March 20 letter to Ms. Tucker had been delivered to and signed for by Ms. Tucker at the address Rittman address on March 24, 2008, and at the Marshallville address on March 26, 2008. Copies of the certified mail return receipts are attached hereto and incorporated herein.
- 11) On March 26, 2008, I was notified telephonically by a representative of Glenbeigh Health Sources that Ms. Tucker failed to appear for the 72-hour examination that the Board scheduled for her. I received written confirmation by letter dated March 26, 2008, which states that Ms. Tucker failed to appear for the examination ordered by the Board. A copy of the letter from Glenbeigh Health Sources is attached hereto and incorporated herein.
- 12) Further, Affiant Sayeth Naught.



David P. Katko
Enforcement Attorney

Sworn to and signed before me, Angela M. McNair, Notary Public, this 24th
day of April, 2008.



Angela M. McNair
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration
Section 147.03 R.C.



Notary Public

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

March 4, 2008

Personal and Confidential

Jennifer Marie Tucker
7655 Mt. Eaton Road, P.O. Box 122
Marshallville, OH 44645

Dear Ms. Tucker:

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

“[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.”

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

- (1) On or about March 6, 2004, you were arrested in Barberton, Ohio, for violation of Section 4511.19(A)(4), Ohio Revised Code, Operating Vehicle Under the Influence of Alcohol or Drugs [OVI], Section 4511.19(A)(1), Ohio Revised Code, OVI, 4510.11(A), Driving Under Suspension or in Violation of License Restriction; Ohio Revised Code, and Section 331.34(A), Failure to Control; Weaving; Full Time and Attention, Codified Ordinances of the City of Barberton, Ohio. The facts underlying the charges were that, shortly prior to your arrest, the vehicle you were driving struck a parked vehicle. The police report indicates that at the time of your arrest you exhibited a Blood Alcohol Content of 0.208, glassy red eyes, slow motor movements, unsteady gait, staggering, loss of balance, a strong odor of alcohol and an inability to complete a recitation of the alphabet beyond the letter “G.”

On or about March 9, 2004, in the Barberton Municipal Court, you pled no contest to and were found guilty of OVI in violation of Section 4511.19(A)(4), Ohio Revised Code, with all other charges dropped. You were, *inter alia*, sentenced to one hundred and eighty days in jail, of which one hundred and seventy four days were suspended and the remaining six days were to be served at Oriana House. You were further fined \$300 and ordered to pay \$94 in costs.

- (2) On or about September 4, 2004, you were arrested in Rittman, Ohio, for violations of Section 2917.11(B)(1), Ohio Revised Code, Disorderly Conduct, and Section

2921.33(A), Ohio Revised Code, Resisting Arrest. The police report indicates that at the time of your arrest you exhibited stumbling, unsteady gait, watery and bloodshot eyes, slurred speech and a strong odor of alcohol.

On or about January 24, 2005, in the Wayne County Municipal Court, you pled no contest to and were found guilty of Section 2921.33(A), Resisting Arrest, Ohio Revised Code. You were sentenced to six months community control, fined \$300 and ordered to perform eighty hours of community service. On or about August 9, 2005, the court determined that probable cause exists to determine that you had violated the terms of your community control and scheduled a show cause hearing for October 21, 2005, due to your March 6, 2005 arrest for Disorderly Conduct, to be more completely described below. On or about October 21, 2005, the court continued your community control for one year and further required you to complete an additional forty hours of community service.

- (3) On or about March 6, 2005, you were arrested in Wadsworth, Ohio for violation of Section 2919.25(A), Ohio Revised Code, Domestic Violence. The police report indicates that at the time of your arrest you appeared to be very intoxicated.

On or about July 6, 2005, in Wadsworth Municipal Court located in Wadsworth, Ohio, you pled no contest to and were found guilty of Section 2917.11(A), Disorderly Conduct, Ohio Revised Code. You were sentenced to thirty days in jail, said sentence suspended and fined \$100.

- (4) On or about November 27, 2005, you were arrested in Wadsworth, Ohio for violation of Section 2919.25(A), Domestic violence, Ohio Revised Code. The police report indicates that at the time of your arrest you appeared to be intoxicated.

On or about April 5, 2006, in Wadsworth Municipal Court located in Wadsworth, Ohio, you pled no contest to and were found guilty of Section 2919.25(A), Domestic Violence, Ohio Revised Code. You were sentenced to one hundred and eighty days in jail, one hundred and twenty days of which were suspended, of which thirty days were to be served in house arrest, fined \$250 and order to complete domestic violence counseling.

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 Health Sources, 2863 St. Rt. 45, Rock Creek, Ohio 44084, (440) 563-3400. You must contact Cathy Chambers at 1-800-234-1001, extension 1014 immediately. You are to report to Glenbeigh Health Sources, on **Wednesday, March 26, 2008, at 10:00 a.m.** for a 72-hour in-patient evaluation.

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 \$1800. You must present a certified check or money order in this amount 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/DPK/fib
Enclosures

CERTIFIED MAIL #91 7108 2133 3934 3690 5395
RETURN RECEIPT REQUESTED

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

March 20, 2008

Via Certified, Restricted Delivery, and U.S. Regular Mail

Jennifer Marie Tucker
7655 Mt. Eaton Road, P.O. Box 122
Marshallville, OH 44645

Re: March 26, 2008 Evaluation.

Dear Ms. Tucker:

This letter will serve to notify you that the evaluation scheduled for you to begin at 10:00 a.m., March 26, 2008, Glenbeigh Health Sources, 2863 St. Rt. 45, Rock Creek, Ohio 44084 will not be rescheduled.

You called me on Tuesday, March 18, 2008, at approximately 1:00 p.m. and left me a voicemail message, which I returned at 1:04 p.m. on March 18, 2008. You advised me that you had just received the evaluation letter sent by the Board on March 4, 2008, and that you could not attend the evaluation, regardless of when the evaluation was scheduled because:

- You did not have the \$1,800.00 to pay for the evaluation and did not believe that you could raise said money;
- You could not afford to take three days off work; and
- You could not find anyone to take care of your two children.

I advised you that, based on the information I obtained from the United States Postal Service [USPS], you apparently moved to a new address without changing your address with the Board as required. The USPS information indicated that the Board's March 4, 2008 letter was forwarded to your new address on March 6, 2008, a notice was left at your new address on March 11, 2008, and you failed to retrieve the notice until March 17, 2008. I also advised you that I would be willing to discuss rescheduling your evaluation with the Board's Secretary if you advised me no later than Wednesday, March 19, 2008, of a new date in the near future for which you would be able to attend the examination if rescheduled.

You advised me that you would definitely call me later on March 18, 2008, or, at the absolute latest, March 19, 2008. Having not received any call from you by the close of business on March 19, 2008, I left a voicemail message for you on March 20, 2008, at approximately 9:28 a.m.,

Direct Dial: (614) 728-3676

FAX: (614) 728-5946

Website: www.med.ohio.gov

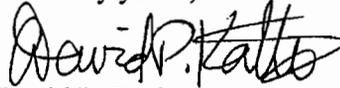
To protect and enhance the health of Ohioans, the State Medical Board of Ohio is committed to effective medical regulation



advising that you had to call me back immediately with your answer and also providing you with the Board's facsimile number and advising you that you had to submit a written change of address to the Board immediately. I spoke with you on March 20, 2008, at approximately 11:50 a.m. You did not provide any date certain for rescheduling the March 26, 2008, evaluation. After speaking with you, I contacted the Board's Supervising Member and advised him of your reasons for not being able to attend the March 26, 2008 evaluation. The Board's Supervising Member advised that he would not agree to rescheduling the evaluation.

Please be advised that all terms and conditions set forth in the Board's March 4, 2008 certified letter ordering you to said evaluation remain in full force and effect.

Sincerely yours,



David P. Katko
Enforcement Attorney

CERTIFIED MAIL #91 7108 2133 3934 3686 8034
RETURN RECEIPT REQUESTED

Duplicate mailing to:

Jennifer Marie Tucker
100 Pleasant View Drive
Rittman, OH 44270

CERTIFIED MAIL #91 7108 2133 3934 3686 8041
RETURN RECEIPT REQUESTED



Date Produced: 03/24/2008

STATE MEDICAL BOARD OF OHIO

The following is the delivery information for Certified item number 7108 2133 3934 3690 5395. Our records indicate that this item was delivered on 03/17/2008 at 04:38 p.m. in RITTMAN, OH, 44270. The scanned image of the recipient information is provided below.

Signature of Recipient:

Jennifer Tucker

Jeff Tucker

100 Pleasant View Dr

Rittman, Oh
44270

Address of Recipient:

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 18019711 TUCKER DPK



Date Produced: 03/31/2008

STATE MEDICAL BOARD OF OHIO

The following is the delivery information for Certified item number 7108 2133 3934 3686 8041. Our records indicate that this item was delivered on 03/24/2008 at 10:42 a.m. in RITTMAN, OH, 44270. The scanned image of the recipient information is provided below.

Signature of Recipient:

Jennifer Tucker

0 Mrs. Tucker
100 Pleasant
View Dr

Address of Recipient:

Rittman, OH
44270

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 18019711TUCKER DPK



Date Produced: 03/31/2008

STATE MEDICAL BOARD OF OHIO

The following is the delivery information for Certified item number 7108 2133 3934 3686 8034. Our records indicate that this item was delivered on 03/26/2008 at 01:19 p.m. in MARSHALLVILLE, OH, 44645. The scanned image of the recipient information is provided below.

Signature of Recipient:

Signature of Recipient: *Jerry Tucker*

Address of Recipient:

Address of Recipient: [Redacted]

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 18019711.TUCKER DPK

Glenbeigh

 Cleveland Clinic affiliate



Accredited by
Joint Commission

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

March 26, 2008

Dave Katko
Ohio Medical Board
30 South High Street
Columbus, Ohio 42215-6127

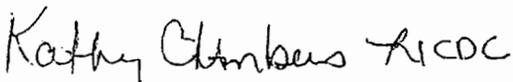
RE: Jennifer Tucker

Dear Dave:

This is to advise you that, Jennifer Tucker, who you referred for a three-day inpatient evaluation on 03/26/08, 10:00 a.m., at Glenbeigh Hospital of Rock Creek, was a no show for the evaluation, and there was not any contact with Glenbeigh..

If I can be of further assistance, please let me know.

Respectfully,



Kathy Chambers,
Admission Coordinator

OHIO STATE MEDICAL BOARD

APR 07 2008

RECEIVED