

STATE MEDICAL BOARD  
OF OHIO  
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**CONSENT AGREEMENT  
BETWEEN ERICKA L. DAVIS, P.A.,  
AND  
THE STATE MEDICAL BOARD OF OHIO**

This Consent Agreement is entered into by and between Ericka L. Davis, P.A. [Ms. Davis], and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapters 4730. and 4731., Ohio Revised Code.

Ms. Davis enters into this Consent Agreement being fully informed of her rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

**BASIS FOR ACTION**

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

- A. The Board is empowered by Section 4730.25(B), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for violations of Section 4730.25(B)(5), Ohio Revised Code, “[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.”
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the aforementioned violations as set forth in the October 14, 2009 Entry of Order [October 2009 Order] issued by the Board to Ms. Davis, which established certain terms, conditions, and limitations upon Ms. Davis’s certificate to practice as a physician assistant. The Board expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4730. or 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement.
- C. Ms. Davis’s certificate to practice as a physician assistant in the state of Ohio, Certificate # 50. 003005, was reinstated by the Board on or about November 12, 2009, and is currently subject to the probationary terms, conditions, and limitations set forth in the October 2009 Order.
- D. Ms. Davis admits that she remains subject to the terms, conditions and limitations, related to her underlying certificate to practice as a physician assistant, as are set forth in the October 2009 Order that continues in full force and effect and which arose from her history of chemical dependency. Ms. Davis states, and the Board

acknowledges, that Ms. Davis seeks and has applied for physician-delegated prescriptive authority.

- E. Further, Ms. Davis agrees and understands that the probationary terms, conditions and limitations in this Consent Agreement related to any certificate to prescribe held by Ms. Davis are beyond and in addition to the regulatory and statutory provisions applicable to physician-delegated prescriptive authority.

### **AGREED CONDITIONS**

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, Ms. Davis shall be GRANTED a provisional certificate to prescribe in the State of Ohio, provided she otherwise meets all statutory and regulatory requirements, and upon receipt of all necessary and appropriate documentation, including but not limited to receipt of the writing signed by Ms. Davis and her primary supervising physician as set forth in this Consent Agreement. Further, Ms. Davis knowingly and voluntarily agrees with the Board that said provisional certificate to prescribe, as well as any subsequent certificate to prescribe that may be issued in the future to Ms. Davis in accordance with the statutory and regulatory requirements governing physician-delegated prescriptive authority, shall be subject to the same PROBATIONARY terms, conditions and limitations set forth in this Consent Agreement.

### **Drug Associated Restrictions & Verification of Prescribing**

1. Ms. Davis shall keep a log of all controlled substances prescribed, as well as all carisoprodol and tramadol prescribed. Such log shall be submitted, in the format approved by the Board, on the date upon which Ms. Davis's quarterly declaration is due, or as otherwise directed by the Board. During the provisional period of Ms. Davis's physician-delegated prescribing, such drug log must include a written statement, signed and dated by the physician who has been designated as the primary supervising physician, as that term is used in Chapter 4730-2 of the Ohio Administrative Code, and who has the primary responsibility for verifying the provisional period affiliated with Ms. Davis's provisional certificate to prescribe [primary supervising physician], documenting that such primary supervising physician has personally examined Ms. Davis's drug log and determined it to be accurate and clinically satisfactory. Upon successful completion of said provisional period, such drug log must include a written statement, signed and dated by a supervising physician with whom Ms. Davis has a concurrent Board-approved supervisory agreement, who holds a certificate to practice medicine or osteopathic medicine in this state that is not subject to restrictions, limitations, or probationary conditions, and who also holds an unrestricted registration with the federal Drug Enforcement Administration, documenting that said supervising physician has personally examined Ms. Davis's drug log and determined it to be accurate and clinically satisfactory. Further, Ms. Davis shall make her patient records with regard

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to such prescribing available for review by an agent of the Board immediately upon request.

In addition, the Board shall require a quarterly statement addressing Ms. Davis's performance as a physician assistant specifically related to physician-delegated prescribing, as well as her progress and status, including information concerning Ms. Davis's clinical skills, professionalism, ethical behavior, amenability to supervision and any complaints from patients or coworkers. During the provisional period, such report must be submitted by the primary supervising physician affiliated with Ms. Davis's provisional certificate to prescribe. Accordingly, within thirty days of the effective date of this Consent Agreement, and prior to commencing any prescribing pursuant to her provisional certificate to prescribe, Ms. Davis shall provide to the Board a writing, signed by both herself and her primary supervising physician, documenting that the primary supervising physician has received a copy of this Consent Agreement and the October 2009 Order, and that he or she agrees to fulfill the responsibilities of the primary supervising physician set forth herein. Further, during the provisional period of Ms. Davis's physician-delegated prescribing, the person identified as the primary supervising physician will be the designated supervising physician for purposes of this Consent Agreement, unless replaced as set forth herein.

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

In the event that Ms. Davis's designated primary supervising physician or supervising physician becomes unable or unwilling to serve in this capacity, Ms. Davis must immediately so notify the Board in writing. Furthermore, Ms. Davis shall ensure that the previously designated primary supervising physician and/or supervising physician also notifies the Board directly of his or her inability to serve and the reasons therefore.

The Board expressly reserves the right to disapprove any person proposed to serve as Ms. Davis's designated primary supervising physician or as the designated supervising physician for the purpose of this Consent Agreement, or to withdraw approval or acceptance of any person previously approved or accepted to serve as Ms. Davis's designated primary supervising physician or supervising physician for the purpose of this Consent Agreement, in the event that the Secretary and Supervising Member of the Board determine that any such primary supervising physician or supervising physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

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### **Required Reporting by Licensee**

2. Within thirty days of the effective date of this Consent Agreement, Ms. Davis shall provide a copy of this Consent Agreement to all employers or entities with which she is under contract to provide health care services (including but not limited to third party payors) or is receiving training, the Chief of Staff at each hospital where she has privileges or appointments, and the primary supervising physician related to Ms. Davis's provisional certificate to prescribe. Further, Ms. Davis shall promptly provide a copy of this Consent Agreement to all employers or entities with which she contracts to provide health care services, or applies for or receives training, the Chief of Staff at each hospital where she applies for or obtains privileges or appointments, and any physician who agrees to serve as the designated supervising physician pursuant to this Consent Agreement, and/or as a designated reporting physician. In the event that Ms. Davis provides any health care services or health care direction or medical oversight to any emergency medical services organization or emergency medical services provider, within thirty days of the effective date of this Consent Agreement Ms. Davis shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, Ms. Davis shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
  
3. Within thirty days of the effective date of this Consent Agreement, Ms. Davis shall provide a copy of this Consent Agreement to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which she currently holds any license or certificate. Ms. Davis further agrees to provide a copy of this Consent Agreement at time of application to the proper licensing authority of any state in which she applies for any professional license or for reinstatement of any professional license. Further, Ms. Davis shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original

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facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

4. Ms. Davis shall promptly provide a copy of this Consent Agreement to all persons and entities that provide Ms. Davis chemical dependency treatment or monitoring. Further, Ms. Davis shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

#### **FAILURE TO COMPLY**

If, in the discretion of the Secretary and Supervising Member of the Board, Ms. Davis appears to have violated or breached any term or condition of this Consent Agreement or the October 2009 Order, the Board reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including, but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Consent Agreement or the October 2009 Order.

If the Secretary and Supervising Member of the Board determine that there is clear and convincing evidence that Ms. Davis has violated any term, condition or limitation of this Consent Agreement, Ms. Davis agrees that the violation, as alleged, also constitutes clear and convincing evidence that her continued practice presents a danger of immediate and serious harm to the public for purposes of initiating a summary suspension pursuant to Section 4730.25(G), Ohio Revised Code.

#### **DURATION/MODIFICATION OF TERMS**

Ms. Davis shall not request modification to the probationary terms, limitations, and conditions contained in this Consent Agreement for at least one year from the date upon which Ms. Davis is granted a provisional certificate to prescribe. Further, Ms. Davis shall not request termination of this Consent Agreement for a minimum of five years from the effective date of the October 2009 Order or for at least two years from the date upon which Ms. Davis is granted a provisional certificate to prescribe, whichever is later. Otherwise, the terms, limitations and conditions of

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this Consent Agreement may be amended or terminated in writing at any time upon the agreement of both parties.

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

In the event that any term, limitation, or condition contained in this Consent Agreement is determined to be invalid by a court of competent jurisdiction, Ms. Davis and the Board agree that all other terms, limitations, and conditions contained in this Consent Agreement shall be unaffected.

### ACKNOWLEDGMENTS/LIABILITY RELEASE

Ms. Davis acknowledges that she has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

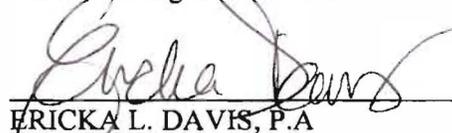
Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

Ms. Davis hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This Consent Agreement shall be considered public records as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Ms. Davis acknowledges that her social security number will be used if this information is so reported and agrees to provide her social security number to the Board for such purposes.

### EFFECTIVE DATE

It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

  
ERICKA L. DAVIS, P.A.

10/6/10  
DATE

  
LANCE A. TALMAGE, M.D.  
Secretary

10-13-10  
DATE

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Raymond J. Albert /bij  
RAYMOND J. ALBERT *by authorization*  
Supervising Member

Oct. 13, 2010  
DATE

Marcie A. Pastrick  
MARCIE A. PASTRICK  
Enforcement Attorney

10/08/2010  
DATE

# State Medical Board of Ohio

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



Richard A. Whitehouse, Esq.  
Executive Director

(614) 466-3934  
med.ohio.gov

October 14, 2009

Ericka L. Davis, P.A.  
2535 Bellfield Street  
Kettering, OH 45420

RE: Case No. 09-CRF-054

Dear Ms. Davis:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Gretchen L. Petrucci, 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 14, 2009, 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." with a stylized flourish at the end.

Lance A. Talmage, M.D.  
Secretary

LAT:jam  
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3934 3487 6758  
RETURN RECEIPT REQUESTED

Cc: Eric J. Plinke, Esq.  
CERTIFIED MAIL NO. 91 7108 2133 3934 3487 6765  
RETURN RECEIPT REQUESTED

*Mailed 10-16-09*

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Gretchen L. Petrucci, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 14, 2009, 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 Ericka L. Davis, P.A., Case No. 09-CRF-054, as it appears in the Journal of the State Medical Board of Ohio.

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



\_\_\_\_\_  
Lance A. Talmage, M.D.  
Secretary

(SEAL)

\_\_\_\_\_  
October 14, 2009  
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

\*

\*

CASE NO. 09-CRF-054

ERICKA L. DAVIS, P.A.

\*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on October 14, 2009.

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

It is hereby ORDERED, that:

- A. **GRANT OF CERTIFICATE; SUSPENSION OF CERTIFICATE:** The certificate of Ericka L. Davis, P.A., to practice as a physician assistant in the State of Ohio shall be GRANTED, provided that she otherwise meets all statutory and regulatory requirements. That certificate shall be immediately SUSPENDED for an indefinite period of time.
- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Ms. Davis' certificate to practice as a physician assistant in Ohio until all of the following conditions have been met:
1. **Application for Reinstatement or Restoration:** Ms. Davis shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
  2. **Completion of Outpatient Treatment and Demonstration of Ability to Resume Practice:** Ms. Davis shall complete treatment and demonstrate to the satisfaction of the Board that she can resume practice in compliance with

acceptable and prevailing standards of care. Such demonstration shall include but shall not be limited to the following:

- a. Certification from a treatment provider approved under Section 4731.25, Ohio Revised Code, that Ms. Davis has successfully completed any required inpatient treatment.
- b. Evidence of continuing full compliance with an aftercare contract with a treatment provider approved under Section 4731.25, Ohio Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10, Ohio Administrative Code.
- c. Evidence of continuing full compliance with this Order.
- d. Two written reports indicating that Ms. Davis' ability to practice as a physician assistant has been assessed and that she has been found capable of practicing according to acceptable and prevailing standards of care, with respect to chemical dependence/abuse.

The reports shall have been made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Ms. Davis. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Ms. Davis shall provide the assessors with copies of patient records from any evaluation and/or treatment that she has received, and a copy of this Order. The reports of the assessors shall include any recommendations for treatment, monitoring, or supervision of Ms. Davis, and any conditions, restrictions, or limitations that should be imposed on Ms. Davis's practice of as a physician assistant. The reports shall also describe the basis for the assessor's determinations.

All reports required pursuant to this paragraph shall be based upon examination occurring within the three months immediately preceding any application for reinstatement or restoration. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and

Supervising Member determine that such updated assessment and report is warranted for any reason.

3. **Additional Evidence of Fitness to Resume Practice:** In the event that Ms. Davis' certificate remains suspended for more than two years prior to application for reinstatement, she shall submit evidence of her present fitness to resume practice, including information regarding her activities during the suspension period, pursuant to Section 4730.28, Ohio Revised Code.
- C. **PROBATION:** Upon reinstatement or restoration, Ms. Davis' certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
1. **Obey the Law:** Ms. Davis shall obey all federal, state, and local laws, and all rules governing the practice of a physician assistant in Ohio.
  2. **Quarterly Appearances:** Ms. Davis shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Ms. Davis' certificate is reinstated or restored, or as otherwise requested by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
  3. **Quarterly Declarations:** Ms. Davis shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which Ms. Davis' certificate is reinstated or restored, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
  4. **Sobriety**
    - a. **Abstention from Drugs:** Ms. Davis shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed, or administered to her by another so authorized by law who has full knowledge of Ms. Davis' history of alcohol abuse. Further, in the event that Ms. Davis is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Ms. Davis shall notify the Board in writing within seven days,

providing the Board with the identity of the prescriber; the name of the drug Ms. Davis received; the medical purpose for which she received the drug; the date the drug was initially received; and the dosage, amount, number of refills, and directions for use. Further, within 30 days of the date said drug is so prescribed, dispensed, or administered to her, Ms. Davis shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.

- b. **Abstinence from Alcohol:** Ms. Davis shall abstain completely from the use of alcohol.

5. **Drug & Alcohol Screens; Drug Testing Facility and Collection Site**

- a. Ms. Davis shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Ms. Davis shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug-testing panel utilized must be acceptable to the Secretary of the Board, and shall include Ms. Davis's drug(s) of choice.
- b. Ms. Davis shall submit, at her expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term "toxicology screen" is also used herein for "urine screen" and/or "drug screen.")

All specimens submitted by Ms. Davis shall be negative, except for those substances prescribed, administered, or dispensed to her in conformance with the terms, conditions and limitations set forth in this Order.

Refusal to submit such specimen, or failure to submit such specimen on the day she is selected or in such manner as the Board may request, shall constitute a violation of this Order.

- c. Ms. Davis shall abstain from the use of any substance that may produce a positive result on a toxicology screen, including the consumption of poppy seeds or other food or liquid that may produce a positive result on a toxicology screen.

Ms. Davis shall be held to an understanding and knowledge that the consumption or use of various substances, including but not limited to mouthwashes, hand-cleaning gels, and cough syrups, may cause a positive toxicology screen and that unintentional ingestion of a substance is not distinguishable from intentional ingestion on a toxicology screen, and that, therefore, consumption or use of substances that may produce a positive result in a toxicology screen is prohibited under this Order.

- d. All urine screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and a Board-approved collection site pursuant to the global contract between the approved facility and the Board, which provides for the Board to maintain ultimate control over the urine-screening process and to preserve the confidentiality of positive screening results in accordance with Section 4730.25(F), Ohio Revised Code. The screening process for random testing shall require a daily call-in procedure. Further, in the event that the Board exercises its discretion, as provided in Paragraph 6 below (“Alternative Drug-testing Facility and/or Collection Site”), to approve urine screenings to be conducted at an alternative drug-testing facility, collection site, and/or supervising physician, such approval shall be expressly contingent upon the Board’s retaining ultimate control over the urine-screening process in a manner that preserves the confidentiality of positive screening results.
- e. Within 30 days of Ms. Davis’ certificate being reinstated or restored, Ms. Davis shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug-testing facility and/or collection site (“DFCS”) in order to facilitate the screening process in the manner required by this Order.

Further, within 30 days of making such arrangements, Ms. Davis shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Ms. Davis and the Board-approved DFCS. Ms. Davis’ failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Order.

- f. Ms. Davis shall ensure that the urine-screening process performed through the Board-approved DFCS requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and that the giving of the specimen is witnessed by a reliable person.

In addition, Ms. Davis and the Board-approved DFCS shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- g. Ms. Davis shall ensure that the Board-approved DFCS provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- h. In the event that the Board-approved DFCS becomes unable or unwilling to serve as required by this Order, Ms. Davis must immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 6 below, as soon as practicable. Ms. Davis shall further ensure that the Board-approved DFCS also notifies the Board directly of its inability to continue to serve and the reasons therefor.
- i. The Board expressly reserves the right to withdraw its approval of any DFCS in the event that the Secretary and Supervising Member of the Board determine that the DFCS has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

- 6. **Alternative Drug-testing Facility and/or Collection Site:** It is the intent of this Order that Ms. Davis shall submit urine specimens to the Board-approved DFCS chosen by the Board. However, in the event that using the Board-approved DFCS creates an extraordinary hardship on Ms. Davis, as determined in the sole discretion of the Board, then, subject to the following requirements, the Board may approve an alternative DFCS or a supervising physician to facilitate the urine-screening process for Ms. Davis.

- a. Within 30 days of the date on which Ms. Davis is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Ms. Davis, she shall submit to the Board in writing for its prior approval the identity of either an alternative DFCS or the

name of a proposed supervising physician to whom Ms. Davis shall submit the required urine specimens.

In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Ms. Davis' residence or employment location, or to a physician who practices in the same locale as Ms. Davis. Ms. Davis shall ensure that the urine-screening process performed through the alternative DFCS or through the supervising physician requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and that the giving of the specimen is witnessed by a reliable person. In addition, Ms. Davis shall ensure that the alternative DFCS or the supervising physician maintains appropriate control over the specimen and immediately informs the Board of any positive screening results.

- b. Ms. Davis shall ensure that the alternative DFCS or the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- c. In the event that the designated alternative DFCS or the supervising physician becomes unable or unwilling to so serve, Ms. Davis must immediately notify the Board in writing. Ms. Davis shall further ensure that the previously designated alternative DFCS or the supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor. Further, in the event that the approved alternative DFCS or supervising physician becomes unable to serve, Ms. Davis shall, in order to ensure that there will be no interruption in her urine-screening process, immediately commence urine screening at the Board-approved DFCS chosen by the Board, until such time, if any, that the Board approves a different DFCS or supervising physician, if requested by Ms. Davis.
- d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Ms. Davis' designated alternative DFCS or any person proposed to serve as her supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has

demonstrated a lack of cooperation in providing information to the Board or for any other reason.

7. **Reports Regarding Drug & Alcohol Screens:** All screening reports required under this Order from the Board-approved DFCS, the alternative DFCS and/or supervising physician must be received in the Board's offices no later than the due date for Ms. Davis' quarterly declaration. It is Ms. Davis' responsibility to ensure that reports are timely submitted.
8. **Additional Screening without Prior Notice:** On the Board's request and without prior notice, Ms. Davis must provide a specimen of her blood, breath, saliva, urine, and/or hair for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Ms. Davis, or for any other purpose, at Ms. Davis' expense. Ms. Davis' refusal to submit a specimen on request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.
9. **Rehabilitation Program:** Ms. Davis shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or C.A., no less than three times per week, or as otherwise ordered by the Board. Substitution of any other specific program must receive prior Board approval.

Ms. Davis shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Ms. Davis' quarterly declarations.

10. **Aftercare:** Ms. Davis shall maintain continued compliance with the terms of the aftercare contract entered into with Glenbeigh and the contract with OPHP, and maintain continued compliance with the terms of the Aftercare Program at Greene Hall Outpatient Services, provided that, where terms of those contracts or that program conflict with terms of this Board Order, the terms of this Board Order shall control.
11. **Absences from Ohio:** Ms. Davis shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.

Further, the Secretary and Supervising Member of the Board shall have the discretion to grant a waiver of part or all of the monitoring terms set forth in this Order for occasional periods of absence of fourteen days or less. In the event that Ms. Davis resides and/or is employed at a location that is within 50 miles of the geographic border of Ohio and a contiguous state, Ms. Davis may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Ms. Davis is otherwise able to maintain full compliance with all other terms, conditions and limitations set forth in this Order.

12. **Required Reporting of Change of Address:** Ms. Davis shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.
13. **Tolling of Probationary Period while Out of Compliance:** In the event Ms. Davis is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.

- D. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Ms. Davis' certificate will be fully restored.
- E. **RELEASES:** Ms. Davis shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Ms. Davis' alcohol abuse, impairment, or related conditions, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43, Ohio Revised Code, and are confidential pursuant to statute. Ms. Davis further shall provide the Board written consent permitting any treatment provider from whom she obtains treatment to notify the Board in the event she fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.
- F. **VIOLATION OF THE TERMS OF THIS ORDER:** If Ms. Davis violates the terms of this Order in any respect, the Board, after giving her notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of her certificate.
- G. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER**

1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Ms. Davis shall provide a copy of this Order to all employers or entities with which she is under contract to provide health-care services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or health-care center where she has privileges or appointments.

Further, Ms. Davis shall promptly provide a copy of this Order to all employers or entities with which she contracts to provide health-care services, or applies for or receives training, and the Chief of Staff at each hospital where she applies for or obtains privileges or appointments.

In the event that Ms. Davis provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider, Ms. Davis shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

This requirement shall continue until Ms. Davis receives from the Board written notification of the successful completion of probation as set forth in Paragraph D, above.

2. **Required Reporting To Other Licensing Authorities:** Within 30 days of the effective date of this Order, Ms. Davis shall provide a copy of this Order to the proper licensing authority of any State or jurisdiction in which she currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which she currently holds any license or certificate.

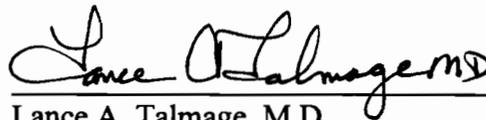
Ms. Davis further shall provide a copy of this Order at the time of application to the proper licensing authority of any State or jurisdiction in which she applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Ms. Davis received from the Board written notification of the successful completion of the probation as set forth in Paragraph D, above.

3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the effective date of this Order, Ms. Davis shall promptly provide a copy of this Order to all persons and entities that provide alcohol-abuse/chemical-dependency treatment to or monitoring of Ms. Davis.
4. **Required Documentation of the Reporting Required by Paragraph G:** Ms. Davis shall provide the Board with one of the following documents as proof of each required notification within 30 days of the date of each such

notification: (a) the return receipt of certified mail within 30 days of receiving that return receipt, (b) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (c) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (d) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

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

(SEAL)



Lance A. Talmage, M.D.  
Secretary

October 14, 2009

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO 2009 SEP 17 PM 3: 05

In the Matter of	*	
Ericka L. Davis, P.A.	*	Case No. 09-CRF-054
Respondent.	*	Hearing Examiner Petrucci

### REPORT AND RECOMMENDATION

#### Basis for Hearing

By letter dated May 13, 2009, the State Medical Board of Ohio [Board] notified Ericka L. Davis, P.A., that it had proposed to deny her application for a certificate to practice as a physician assistant in Ohio or to take disciplinary action against her. The Board based its proposed action on allegations that the Board had ordered Ms. Davis to an impairment examination in April 2009, and that she had been found to be impaired in her ability to practice as a physician assistant. The Board further alleged that Ms. Davis's acts, conduct and/or omissions constitute impairment of ability to practice according to acceptable and prevailing standards of care, as set forth in Section 4730.25(B)(5), Ohio Revised Code. Accordingly, the Board advised Ms. Davis of her right to request a hearing in this matter. (State's Exhibit [St. Ex.] 1 at 1-3)

Ms. Davis requested a hearing on May 21, 2009. (St. Ex. 1 at 9)

#### Appearances at the Hearing

Richard Cordray, Attorney General, by Karen A. Unver, Assistant Attorney General, on behalf of the State of Ohio.

Eric J. Plinke, Esq., on behalf of Ms. Davis.

Hearing Date: September 1, 2009

### PROCEDURAL MATTER

After the hearing, the Hearing Examiner noticed that one letter admitted as part of Respondent's Exhibit B, should have been admitted under seal. The Hearing Examiner contacted the parties, who agreed to the admission of the letter under seal. Accordingly, the Hearing Examiner reopened the hearing record, sealed page 5 of Respondent's Exhibit B, and closed the hearing record on September 15, 2009.

## SUMMARY OF THE EVIDENCE

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

### Background

1. Ericka L. Davis, P.A., was born in 1978. She obtained a bachelor's degree in 2007 from Kettering College of Medical Arts in Kettering, Ohio. Additionally, in 2008, she completed the physician assistant [PA] program, earning a master's degree, from Kettering College of Medical Arts. (St. Ex. 7 at 1-2, 11-16, 22; Hearing Transcript [Tr.] at 49)
2. In August 2008, Ms. Davis successfully took the Physician Assistant National Certifying Examination. The minimum passing score for that examination was 350; Ms. Davis scored 595. (St. Ex. 7 at 2, 17-19)
3. Ms. Davis obtained, in 2009, a license to practice as a physician assistant in New York; however, she has not practiced as a PA. Rather, from 2001 to the day of hearing, she has resided in Ohio and been employed as a server. (St. Ex. 6 at 17; St. Ex. 7 at 3-4; Respondent's Exhibit [Resp. Ex.] D; Tr. at 51-54)

### History of Alcohol Consumption and Criminal Convictions

4. Inasmuch as there is no dispute regarding Ms. Davis' history of alcohol consumption and her criminal convictions, those items are briefly described below:
  - Ms. Davis first consumed alcohol at the age of 17 or 18. (St. Ex. 6 at 18, 40, 41)
  - When she went to college, she drank heavily and was placed on academic probation during the last part of her freshman year "because of hanging with the partying crowd." Ms. Davis transferred to another school. (St. Ex. 6 at 11, 15)
  - In 1998 at the age of 19, Ms. Davis was stopped while driving. She was charged with Driving under the Influence [DUI], and later convicted. Her driver's license was suspended for a period of time. (St. Ex. 6 at 11, 40; St. Ex. 7 at 9; Tr. at 15, 64)
  - A few months later in 1998, Ms. Davis was stopped again while driving. She was charged with DUI and Driving under Suspension. She was convicted and required to attend a weekend driver's intervention program, which she did. (St. Ex. 6 at 11, 19, 40; St. Ex. 7 at 9; Tr. at 15, 64-65)

- In 2002 at the age of 23, Ms. Davis was involved in an automobile accident. She had had a glass of wine earlier. Ms. Davis remained at the accident scene and provided the police with preliminary information, but she then left the scene. She went to the police department the next day for further discussions. She was convicted of Failure to Yield. (St. Ex. 6 at 11; Tr. at 16-18)

Ms. Davis testified at the hearing in this matter that the glass of wine that she had consumed did not play a role in the 2002 accident or her departure from the accident scene. Rather, she stated that she had been going through a very emotional period at that time because of she had been the victim of a violent crime that had occurred a week or two earlier, and she had reacted poorly after the 2002 automobile accident. (Tr. at 18, 25-26, 33-34, 36)

- In 2007 at the age of 29, Ms. Davis was stopped while driving. She was arrested and charged with Operating a Vehicle under the Influence [OVI], among other things. Ms. Davis testified that, as a result of that arrest, she was given intervention in lieu of a conviction and required to attend a weekend driver's intervention program.<sup>1</sup> During this driver's intervention program, it was recommended that she receive outpatient treatment. Ms. Davis completed an eight-week, outpatient program in 2008 at Evergreen Counseling. (St. Ex. 6 at 11, 19, 24, 28, 40-42; St. Ex. 7 at 9, 25-32; Tr. at 19, 64-65)
- Ms. Davis attended eight recovery group meetings in 2007 and/or 2008. (St. Ex. 6 at 19)
- Ms. Davis consumed alcohol on four occasions between July and November 2008, which was after she had completed the Evergreen Counseling outpatient program. (St. Ex. 6 at 11, 40; Tr. at 66)
- Ms. Davis ceased drinking alcohol in November 2008. Ms. Davis explained that she had stopped drinking alcohol because, after "looking over everything, [I] decided that there's been enough consequences and I just don't want to do it anymore." (St. Ex. 6 at 28, 40-42; Tr. at 65-67)

### **Board Application and Subsequent Investigation**

5. On September 3, 2008, Ms. Davis filed with the Board an application for a certificate to practice as a PA in Ohio. In the application, she indicated that she had been "convicted or

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<sup>1</sup>The record does not clearly set forth the disposition of the OVI charges against Ms. Davis in 2007. On the one hand, Ms. Davis reflected in September 2008 that, as a result of the 2007 incident, she was sentenced, which "included a Weekend Intervention Program and six months license suspension with driving privileges," but the record does not include a conviction or sentence from the court. On the other hand, Ms. Davis stated at hearing that she was given intervention in lieu of conviction. (St. Ex. 7 at 9; Tr. at 19) The record is, therefore, unclear as to whether she was found guilty of OVI. Ms. Davis readily admits the 2007 incident and her excessive consumption of alcohol, and therefore the precise disposition of the court case related to the OVI charges in 2007 is not crucial in this matter.

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.” Ms. Davis disclosed that she had been convicted of DUI twice in 1998 and cited for OVI in July 2007. In addition, Ms. Davis disclosed that she had had a civil lawsuit filed against her following the 2002 automobile accident. Copies of documents related to the 2007 incident from the Kettering Police Department and the Kettering Municipal Court were also included with Ms. Davis’ Board application. (St. Ex. 7 at 6, 9, 25-32; Tr. at 12-15, 44)

6. In late 2008, Ms. Davis spoke with a Board investigator about the 1998, 2002 and 2007 automobile incidents. (Tr. at 18, 26, 37)

### **2008 Impairment Examination**

7. On March 25, 2009, the Board ordered Ms. Davis to submit to an examination pursuant to Section 4730.25(B)(5), Ohio Revised Code, and cited as its basis the automobile incidents in 1998, 2002 and 2007. (St. Ex. 2)
8. The Board ordered Ms. Davis to enter Glenbeigh Hospital [Glenbeigh] on April 6, 2009, for a 72-hour examination. Glenbeigh is a Board-approved treatment provider for alcohol and drug addiction in Rock Creek, Ohio. (St. Ex. 2; State Medical Board of Ohio Website, September 9, 2009, at <[http://med.ohio.gov/pdf/treatment\\_compliance/TREATMNT.pdf](http://med.ohio.gov/pdf/treatment_compliance/TREATMNT.pdf)>).
9. Ms. Davis completed the 72-hour inpatient examination as ordered. (Tr. at 20-21)
10. Christopher L. Adelman, M.D., reported Glenbeigh’s conclusions to the Board by letter dated April 9, 2009. Dr. Adelman is a physician at Glenbeigh. Since 1981, he has held positions as the medical director of addiction treatment programs at three hospitals in Montana, Oklahoma and Ohio. He is board-certified by the American Board of Emergency Medicine, and is certified by the American Society of Addiction Medicine.<sup>2</sup> (Tr. at 6; St. Exs. 3, 4)
11. Dr. Adelman stated that Glenbeigh diagnosed Ms. Davis with alcohol abuse and post-traumatic stress disorder, in remission.<sup>3</sup> Dr. Adelman stated that Ms. Davis is impaired in her ability to practice as a physician assistant according to acceptable and prevailing standards of care. Glenbeigh recommended inpatient treatment at a Board-approved treatment provider in accordance with the Board’s administrative rules. (St. Ex. 3; Resp. Ex. A at 7; Tr. at 25, 78-79, 93)

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<sup>2</sup>Dr. Adelman’s background and education are set forth more fully in the hearing record. (St. Ex. 4; Tr. at 74-76)

<sup>3</sup>The post-traumatic stress disorder is related to the previously mentioned event that occurred in 2002 when Ms. Davis was the victim of a violent crime.

12. The Glenbeigh assessment also contains the following statements regarding Ms. Davis:

- Ms. Davis does not consider herself to be an alcoholic.<sup>4</sup>
- “The patient has a history of alcohol use after completion of the treatment program in 2008. She seemed to justify her alcohol use because she drank only one drink on several occasions during family celebrations and she did not drive.”
- “Patient lacks an understanding of the disease concept of chemical dependency. Patient is in denial as evidenced by the patient driving under the influence repeatedly. The patient has a history of poor alcohol related judgment.”
- “Though [Ms. Davis] acknowledged that she has made poor choices while under the influence (she was cited with a third DUI in 2007) she is struggling with whether or not she believes she is an alcoholic, due to the infrequency of her drinking.”

(St. Ex. 6 at 19, 20, 22, 55)

13. Dr. Adelman testified that the following factors had caused him to conclude that Ms. Davis lacks control over alcohol, and is impaired: (a) Ms. Davis has three DUI convictions; (b) Ms. Davis has a history of problem drinking while in college; and (c) Ms. Davis continued to drink alcohol despite the recurrent problems she had encountered. Dr. Adelman explained that Ms. Davis’s consumption of alcohol constitutes recurrent substance use that resulted in her failure to perform at college, that occurred in situations in which it is physically hazardous (driving a car), and that caused recurrent legal problems, including an arrest. Dr. Adelman stated that the facts satisfy a diagnosis of alcohol abuse under the Diagnostic and Statistical Manual, Fourth Edition [DSM-IV]. (Tr. at 81-82, 84)

14. The DSM-IV states that, to be diagnosed with substance abuse, the pattern of substance use is to occur within a 12-month period. Dr. Adelman acknowledged that two of Ms. Davis’ DUI convictions had occurred in a 12-month period, but they had occurred many years ago in 1998. He stated that, from a clinical point of view, he looked at her “whole picture,” and found that there was a pattern. Dr. Adelman further acknowledged that, although a person may not be currently abusing alcohol at the time of examination, it can be appropriate to diagnose the person with alcohol abuse because of the history. In addition, Dr. Adelman agreed that, if the person’s diagnosis is alcohol abuse, the Medical Board’s rules require treatment, even if the person is not currently abusing alcohol. (Tr. at 96-101)

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<sup>4</sup>Dr. Adelman explained that “an alcoholic” is a lay term that includes persons diagnosed with alcohol dependence or alcohol abuse. (Tr. at 108, 109-110)

### **Inpatient Treatment and Post-Treatment Recovery Activities**

15. Ms. Davis testified that, upon receiving Glenbeigh's diagnosis and recommendation for further treatment, she entered Glenbeigh's 28-day, inpatient treatment program. She successfully completed that program and was discharged on May 4, 2009. (Tr. at 31, 94; Resp. Ex. A at 6; St. Ex. 5 at 4)

16. The Glenbeigh discharge plan reflects the following:

Ericka seemed to respond favorably to treatment efforts as evidenced by the overall improvement in her level of functioning. She gained insight into her disease, the recovery process and the relationship between her character defects and potential for relapse versus maintaining long-term sobriety. She exhibited consistency over time, as she was open-minded, teachable, willing and humble throughout her stay. She also exhibited consistency in regard to her level of motivation interest in treatment and recovery as evidenced by her attendance of all scheduled activities, completion of all treatment plan assignments and participation in all group activities. She also has a spiritual foundation and relationship with the god of her understanding. \* \* \*  
Ultimately, Ericka's relapse potential depends upon her willingness to follow through with all recommendations she is given.

(St. Ex. 6 at 2; see also, St. Ex. 6 at 92; Resp. Ex. A at 6; St. Ex. 5 at 4)

17. At the completion of her inpatient treatment in May 2009, Ms. Davis promptly entered into an aftercare contract with Glenbeigh, and entered the aftercare program at Greene Hall Outpatient Services [Greene Hall] in Beavercreek, Ohio. Moreover, Ms. Davis entered into an agreement with Ohio Physicians Health Program, Inc. [OPHP]. Pursuant to these contracts and aftercare program, Ms. Davis must abstain from alcohol, obtain counseling, obtain periodic urine testing through FirstLab, and attend recovery group meetings. The OPHP agreement further states that, in addition to the general drug/alcohol testing, the ethyl glucuronide (EtG) level of one urine specimen is tested each month. Ms. Davis testified that, as of the hearing date, she was compliant with the requirements and she plans to remain compliant. She further stated that her urine screens have all been negative. (St. Ex. 6 at 7-8; Resp. Exs. E, F; Tr. at 22, 39, 41, 49-50, 60, 66, 69, 115-117, 119)

18. Mark D. Lutz is Ms. Davis' case manager at OPHP. Mr. Lutz testified that Ms. Davis has been "in complete compliance since the beginning" of entering into the agreement with OPHP and the other entities. Mr. Lutz noted that the OPHP requirements match the Board's current requirements for impaired practitioners. (Tr. at 115, 118-120, 123-125)

19. Dr. Adelman testified that, based on Ms. Davis' post-treatment performance at the time of the hearing, she has been compliant with her aftercare contracts and aftercare program, which is what is required by the Medical Board. In addition, he stated that her impairment is "no longer

presenting an impediment to being able to practice, subject to those continued monitoring provisions remaining in place.” (Tr. at 95-96)

### **Letters of Support/Recommendation**

20. Carla McConnell is Ms. Davis’ counselor at Greene Hall. Ms. McConnell wrote a letter dated August 26, 2009, stating that Ms. Davis’ prognosis is favorable, and also noting the following:

Ericka has been making excellent progress thus far in Aftercare. She is an active and vocal group member who is not afraid to ask for help. She regularly attends three A.A. meeting each week and the local Caduceus meeting. She has obtained a sponsor and is working with her.

(Resp. Ex. F)

21. Joseph R. Mastandrea, D.O., is Ms. Davis’s monitor for OPHP. Dr. Mastandrea wrote a letter dated August 28, 2009, stating that he meets with Ms. Davis each week for the urine testing process, and she is attending recovery group meetings and aftercare meetings each week. In addition, he stated that Ms. Davis is a “delightful young woman who has readily embraced the concept of recovery.” Dr. Mastandrea advocated that Ms. Davis receive a certificate to practice as a physician assistant, contingent on continued monitoring and support. (Resp. Ex. B at 5; Tr. at 55)
22. In addition, Ms. Davis submitted 11 letters of support and recommendation from coworkers, family and friends. They describe Ms. Davis’ maturity, dedication to becoming a PA, and her commitment to her family. Some further noted that, while a PA student, Ms. Davis was very knowledgeable and professional, and had a good rapport with the patients. (Resp. Ex. B; Tr. at 53-5)

### **Ms. Davis’s Testimony Regarding the Glenbeigh Alcohol-Related Diagnosis**

23. Ms. Davis agrees with the diagnosis of alcohol abuse from Glenbeigh. However, she believes that it was historical alcohol abuse and that she has not currently abused alcohol. (Tr. at 21)
24. Ms. Davis testified that she does not believe that she is impaired because: (a) she is not drinking and has not consumed alcohol for a period of time; (b) she is attending her aftercare meetings and recovery group meetings; and (c) she has learned ways to handle life’s issues. Overall, Ms. Davis does not appear to consider herself to be an alcoholic, but acknowledges that she cannot consume, and does not want to consume, alcohol because of the consequences of her prior drinking. (Tr. at 68-69)

### **Ms. Davis's Testimony Regarding Her Plans for the Future**

25. Ms. Davis stated that she has wanted to be in the health profession since she was in the fifth grade:

\* \* \* It's so rewarding to me to be able to help people and to help them live a better life, to -- just being able to do for other people. And to me, the health care profession was the best way for me to do that. You know, it was rewarding to me, as well for the other person. And I just -- I don't know. There's probably not much I don't like about medicine.

(Tr. at 60) In addition, Ms. Davis explained her interest in geriatric medicine:

I love geriatrics. My grandparents were very close with me, both sets of them. And I had shown an interest in geriatrics a long time ago, it was probably ten years ago. And I guess I didn't realize how much I enjoyed it until a few years back, when I had lost some of them.

But doing my rotations, I just -- felt like I really connected with that population, how they reminded me of my grandparents. And it just -- It's a great population to work with, so -- and I had great fun working with them, as well as taking care of them \* \* \*.

(Tr. at 59)

26. Ms. Davis stated that, at the time she submitted her application to the Board in September 2008, she had anticipated working with Clyo Internal Medicine in Centerville, Ohio. The practice specializes in geriatrics. She explained that, during her schooling, she had had a four-week rotation with the practice. After she graduated, the practice offered her a position, pending her licensure. Ms. Davis stated that the job offer is still available to her. (Tr. at 47-48, 56, 59-60, 63)

27. Finally, Ms. Davis summarized her intentions for the future:

I would just like to say that, you know, I have definitely made some mistakes. I mean, it's obvious to me as well as everybody else that's got a copy of them. But, you know, I -- I wish I could take them back. I can't do that. I can learn from them and -- and, you know, guarantee that they're not going to happen again. And how I can do that is continuing living the way I'm doing now.

And, you know, I want -- I want more than anything to be able to practice, and I'm willing to do what it takes to get there. But it's -- it would be really an honor to be able to work with the people that I want to work with.

(Tr. at 61)

## FINDINGS OF FACT

1. In September 3 2008, Ericka L. Davis, P.A., submitted to the Board an “Application for Physician Assistant Certificate to Practice,” which remains pending.
2. In a letter dated March 25, 2009, the Board notified Ms. Davis of its determination that it had reason to believe that she is in violation of Section 4730.25(B)(5), Ohio Revised Code, and ordered her to undergo a 72-hour inpatient examination beginning on April 6, 2009, to determine if she is in violation of Section 4730.25(B)(5), Ohio Revised Code. The Board stated that its determination was based upon one or more reasons outlined in such letter, including the following:
  - a. In response to question nine of her September 2008 Application, which asked if she had ever been convicted or found guilty of a violation of any law other than a minor traffic violation, Ms. Davis disclosed that, in July 2007, she was charged with, among other things, Operating a Vehicle under the Influence [OVI], and subsequently sentenced, which included a weekend intervention program and suspension of her driver’s license.
  - b. Ms. Davis reported to a Board investigator that, in 2002, she was involved in a car accident, and after the police responded, she left the scene. The following day, she went to the police station at the request of the police and cooperated. She reported that at the time of the accident, she was not intoxicated, however, she admitted that before this accident, she had had wine with dinner.
  - c. Ms. Davis further reported to a Board investigator that, in 1998, when she was 19 years old, she was charged with OVI and consequently, the court found her guilty of OVI, and her license was suspended for one year. Ms. Davis also reported to the Board investigator that, after the above-mentioned license suspension, she was stopped by the police while driving and cited with Driving under Suspension. Ms. Davis stated that before being stopped, she had consumed alcohol but was not impaired and therefore was not charged.
3. By letter dated April 9, 2009, Christopher Adelman, M.D., of Glenbeigh Hospital [Glenbeigh], a Board-approved treatment provider in Rock Creek, Ohio, notified the Board that, following the Board-ordered examination, Ms. Davis’ diagnoses included alcohol abuse. Dr. Adelman further reported that Ms. Davis met the definition of impairment, which is 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 and that she requires treatment by an approved treatment provider that complies with the administrative rules, which require inpatient treatment.
4. Thereafter, Ms. Davis successfully completed Glenbeigh’s 28-day inpatient treatment program, and was discharged on May 4, 2009.

## CONCLUSION OF LAW

The acts, conduct, and/or omissions of Ericka L. Davis, P.A., as set forth in Findings of Fact 1 through 3, establish “[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 set forth in Section 4730.25(B)(5), Ohio Revised Code.

### Rationale for the Proposed Order

The record supports the granting of a certificate to practice as a PA in Ohio. Ms. Davis possesses appropriate and recent training and knowledge. She has been honest and cooperative throughout the licensure and evaluation processes. Accordingly, granting a certificate is recommended.

However, the evidence also demonstrates that Ms. Davis is impaired in her ability to practice as a PA. The Hearing Examiner is not convinced that her abuse of alcohol is only “historical,” as was argued, particularly since she chose to consume alcohol on several occasions in 2008 after completing outpatient treatment at Evergreen Counseling and after multiple other instances of impaired behavior. That decision-making demonstrates recent impaired judgment.

The Proposed Order recommends suspension of the certificate for an indefinite period of time, as set forth in Rule 4730.25(F), Ohio Administrative Code, and includes conditions for reinstatement or restoration, and probationary terms. In the Hearing Examiner’s view, if Ms. Davis were to seek reinstatement of her certificate within three months of September 1, 2009, Dr. Adelman’s testimony on September 1, 2009, could be accepted as one of the recommended assessments finding her capable of practicing.

## PROPOSED ORDER

It is hereby ORDERED, that:

- A. **GRANT OF CERTIFICATE; SUSPENSION OF CERTIFICATE:** The certificate of Ericka L. Davis, P.A., to practice as a physician assistant in the State of Ohio shall be GRANTED, provided that she otherwise meets all statutory and regulatory requirements. That certificate shall be immediately SUSPENDED for an indefinite period of time.
- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Ms. Davis’ certificate to practice as a physician assistant in Ohio until all of the following conditions have been met:
  1. **Application for Reinstatement or Restoration:** Ms. Davis shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.

2. **Completion of Outpatient Treatment and Demonstration of Ability to Resume Practice:** Ms. Davis shall complete treatment and demonstrate to the satisfaction of the Board that she can resume practice in compliance with acceptable and prevailing standards of care. Such demonstration shall include but shall not be limited to the following:
- a. Certification from a treatment provider approved under Section 4731.25, Ohio Revised Code, that Ms. Davis has successfully completed any required inpatient treatment.
  - b. Evidence of continuing full compliance with an aftercare contract with a treatment provider approved under Section 4731.25, Ohio Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10, Ohio Administrative Code.
  - c. Evidence of continuing full compliance with this Order.
  - d. Two written reports indicating that Ms. Davis' ability to practice as a physician assistant has been assessed and that she has been found capable of practicing according to acceptable and prevailing standards of care, with respect to chemical dependence/abuse.

The reports shall have been made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Ms. Davis. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Ms. Davis shall provide the assessors with copies of patient records from any evaluation and/or treatment that she has received, and a copy of this Order. The reports of the assessors shall include any recommendations for treatment, monitoring, or supervision of Ms. Davis, and any conditions, restrictions, or limitations that should be imposed on Ms. Davis's practice of as a physician assistant. The reports shall also describe the basis for the assessor's determinations.

All reports required pursuant to this paragraph shall be based upon examination occurring within the three months immediately preceding any application for reinstatement or restoration. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

3. **Additional Evidence of Fitness to Resume Practice:** In the event that Ms. Davis' certificate remains suspended for more than two years prior to application for reinstatement, she shall submit evidence of her present fitness to resume practice, including information regarding her activities during the suspension period, pursuant to Section 4730.28, Ohio Revised Code.
- C. **PROBATION:** Upon reinstatement or restoration, Ms. Davis' certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
1. **Obey the Law:** Ms. Davis shall obey all federal, state, and local laws, and all rules governing the practice of a physician assistant in Ohio.
  2. **Quarterly Appearances:** Ms. Davis shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Ms. Davis' certificate is reinstated or restored, or as otherwise requested by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
  3. **Quarterly Declarations:** Ms. Davis shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which Ms. Davis' certificate is reinstated or restored, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
  4. **Sobriety**
    - a. **Abstention from Drugs:** Ms. Davis shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed, or administered to her by another so authorized by law who has full knowledge of Ms. Davis' history of alcohol abuse. Further, in the event that Ms. Davis is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Ms. Davis shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Ms. Davis received; the medical purpose for which she received the drug; the date the drug was initially received; and the dosage, amount, number of refills, and directions for use. Further, within 30 days of the date said drug is so prescribed, dispensed, or administered to her, Ms. Davis shall provide the Board with either a copy of the written prescription or other written

verification from the prescriber, including the dosage, amount, number of refills, and directions for use.

- b. **Abstention from Alcohol:** Ms. Davis shall abstain completely from the use of alcohol.

5. **Drug & Alcohol Screens; Drug Testing Facility and Collection Site**

- a. Ms. Davis shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Ms. Davis shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug-testing panel utilized must be acceptable to the Secretary of the Board, and shall include Ms. Davis's drug(s) of choice.
- b. Ms. Davis shall submit, at her expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term "toxicology screen" is also used herein for "urine screen" and/or "drug screen.")

All specimens submitted by Ms. Davis shall be negative, except for those substances prescribed, administered, or dispensed to her in conformance with the terms, conditions and limitations set forth in this Order.

Refusal to submit such specimen, or failure to submit such specimen on the day she is selected or in such manner as the Board may request, shall constitute a violation of this Order.

- c. Ms. Davis shall abstain from the use of any substance that may produce a positive result on a toxicology screen, including the consumption of poppy seeds or other food or liquid that may produce a positive result on a toxicology screen.

Ms. Davis shall be held to an understanding and knowledge that the consumption or use of various substances, including but not limited to mouthwashes, hand-cleaning gels, and cough syrups, may cause a positive toxicology screen and that unintentional ingestion of a substance is not distinguishable from intentional ingestion on a toxicology screen, and that, therefore, consumption or use of substances that may produce a positive result in a toxicology screen is prohibited under this Order.

- d. All urine screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and a Board-approved collection site pursuant to the global contract between the approved facility and

the Board, which provides for the Board to maintain ultimate control over the urine-screening process and to preserve the confidentiality of positive screening results in accordance with Section 4730.25(F), Ohio Revised Code. The screening process for random testing shall require a daily call-in procedure. Further, in the event that the Board exercises its discretion, as provided in Paragraph 6 below (“Alternative Drug-testing Facility and/or Collection Site”), to approve urine screenings to be conducted at an alternative drug-testing facility, collection site, and/or supervising physician, such approval shall be expressly contingent upon the Board’s retaining ultimate control over the urine-screening process in a manner that preserves the confidentiality of positive screening results.

- e. Within 30 days of Ms. Davis’ certificate being reinstated or restored, Ms. Davis shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug-testing facility and/or collection site (“DFCS”) in order to facilitate the screening process in the manner required by this Order.

Further, within 30 days of making such arrangements, Ms. Davis shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Ms. Davis and the Board-approved DFCS. Ms. Davis’ failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Order.

- f. Ms. Davis shall ensure that the urine-screening process performed through the Board-approved DFCS requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and that the giving of the specimen is witnessed by a reliable person.

In addition, Ms. Davis and the Board-approved DFCS shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- g. Ms. Davis shall ensure that the Board-approved DFCS provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- h. In the event that the Board-approved DFCS becomes unable or unwilling to serve as required by this Order, Ms. Davis must immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 6 below, as soon as practicable. Ms. Davis shall

further ensure that the Board-approved DFCS also notifies the Board directly of its inability to continue to serve and the reasons therefor.

- i. The Board expressly reserves the right to withdraw its approval of any DFCS in the event that the Secretary and Supervising Member of the Board determine that the DFCS has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

6. **Alternative Drug-testing Facility and/or Collection Site:** It is the intent of this Order that Ms. Davis shall submit urine specimens to the Board-approved DFCS chosen by the Board. However, in the event that using the Board-approved DFCS creates an extraordinary hardship on Ms. Davis, as determined in the sole discretion of the Board, then, subject to the following requirements, the Board may approve an alternative DFCS or a supervising physician to facilitate the urine-screening process for Ms. Davis.

- a. Within 30 days of the date on which Ms. Davis is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Ms. Davis, she shall submit to the Board in writing for its prior approval the identity of either an alternative DFCS or the name of a proposed supervising physician to whom Ms. Davis shall submit the required urine specimens.

In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Ms. Davis' residence or employment location, or to a physician who practices in the same locale as Ms. Davis. Ms. Davis shall ensure that the urine-screening process performed through the alternative DFCS or through the supervising physician requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and that the giving of the specimen is witnessed by a reliable person. In addition, Ms. Davis shall ensure that the alternative DFCS or the supervising physician maintains appropriate control over the specimen and immediately informs the Board of any positive screening results.

- b. Ms. Davis shall ensure that the alternative DFCS or the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- c. In the event that the designated alternative DFCS or the supervising physician becomes unable or unwilling to so serve, Ms. Davis must immediately notify the Board in writing. Ms. Davis shall further

ensure that the previously designated alternative DFCS or the supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor. Further, in the event that the approved alternative DFCS or supervising physician becomes unable to serve, Ms. Davis shall, in order to ensure that there will be no interruption in her urine-screening process, immediately commence urine screening at the Board-approved DFCS chosen by the Board, until such time, if any, that the Board approves a different DFCS or supervising physician, if requested by Ms. Davis.

- d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Ms. Davis' designated alternative DFCS or any person proposed to serve as her supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
7. **Reports Regarding Drug & Alcohol Screens:** All screening reports required under this Order from the Board-approved DFCS, the alternative DFCS and/or supervising physician must be received in the Board's offices no later than the due date for Ms. Davis' quarterly declaration. It is Ms. Davis' responsibility to ensure that reports are timely submitted.
8. **Additional Screening without Prior Notice:** On the Board's request and without prior notice, Ms. Davis must provide a specimen of her blood, breath, saliva, urine, and/or hair for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Ms. Davis, or for any other purpose, at Ms. Davis' expense. Ms. Davis' refusal to submit a specimen on request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.
9. **Rehabilitation Program:** Ms. Davis shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or C.A., no less than three times per week, or as otherwise ordered by the Board. Substitution of any other specific program must receive prior Board approval.

Ms. Davis shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Ms. Davis' quarterly declarations.

10. **Aftercare:** Ms. Davis shall maintain continued compliance with the terms of the aftercare contract entered into with Glenbeigh and the contract with OPHP, and maintain continued compliance with the terms of the Aftercare Program at Greene Hall Outpatient Services, provided that, where terms of those contracts or that program conflict with terms of this Board Order, the terms of this Board Order shall control.
11. **Absences from Ohio:** Ms. Davis shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.

Further, the Secretary and Supervising Member of the Board shall have the discretion to grant a waiver of part or all of the monitoring terms set forth in this Order for occasional periods of absence of fourteen days or less. In the event that Ms. Davis resides and/or is employed at a location that is within 50 miles of the geographic border of Ohio and a contiguous state, Ms. Davis may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Ms. Davis is otherwise able to maintain full compliance with all other terms, conditions and limitations set forth in this Order.

12. **Required Reporting of Change of Address:** Ms. Davis shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.
  13. **Tolling of Probationary Period while Out of Compliance:** In the event Ms. Davis is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
- D. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Ms. Davis' certificate will be fully restored.
- E. **RELEASES:** Ms. Davis shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Ms. Davis' alcohol abuse, impairment, or related conditions, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43, Ohio Revised Code, and are confidential pursuant to statute. Ms. Davis further shall provide the Board written consent permitting any treatment provider from whom she obtains treatment to notify the Board in the event she fails

to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

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

G. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER**

1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Ms. Davis shall provide a copy of this Order to all employers or entities with which she is under contract to provide health-care services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or health-care center where she has privileges or appointments.

Further, Ms. Davis shall promptly provide a copy of this Order to all employers or entities with which she contracts to provide health-care services, or applies for or receives training, and the Chief of Staff at each hospital where she applies for or obtains privileges or appointments.

In the event that Ms. Davis provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider, Ms. Davis shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

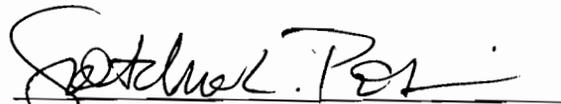
This requirement shall continue until Ms. Davis receives from the Board written notification of the successful completion of probation as set forth in Paragraph D, above.

2. **Required Reporting To Other Licensing Authorities:** Within 30 days of the effective date of this Order, Ms. Davis shall provide a copy of this Order to the proper licensing authority of any State or jurisdiction in which she currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which she currently holds any license or certificate.

Ms. Davis further shall provide a copy of this Order at the time of application to the proper licensing authority of any State or jurisdiction in which she applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Ms. Davis received from the Board written notification of the successful completion of the probation as set forth in Paragraph D, above.

3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the effective date of this Order, Ms. Davis shall promptly provide a copy of this Order to all persons and entities that provide alcohol-abuse/chemical-dependency treatment to or monitoring of Ms. Davis.
  
4. **Required Documentation of the Reporting Required by Paragraph G:** Ms. Davis shall provide the Board with one of the following documents as proof of each required notification within 30 days of the date of each such notification: (a) the return receipt of certified mail within 30 days of receiving that return receipt, (b) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (c) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (d) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

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

  
Gretchen L. Petrucci  
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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med.ohio.gov

## EXCERPT FROM THE DRAFT MINUTES OF OCTOBER 14, 2009

### REPORTS AND RECOMMENDATIONS, MOTIONS FOR RECONSIDERATION & PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Madia announced that the Board would now consider the Reports and Recommendations, the Motion for Reconsideration and the Proposed Findings And Proposed Orders appearing on its agenda.

Dr. Madia asked whether each member of the Board had received, read and considered the hearing records; the Findings of Fact, Conclusions of Law and Proposed Orders, and any objections filed in the matters of: Rafael A. Badri, M.D.; Ericka L. Davis, P.A.; Candy Hope, L.M.T.; Ravi Dutt Madan, M.D.; Randall Jay Smith, D.O.; and Rick D. St. Onge, M.D. A roll call was taken:

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

Dr. Madia 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. Varyani	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Ogg	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

Dr. Madia noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further

adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.;

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

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

.....

Dr. Talmage left the room during the previous discussion.

.....

ERICKA L. DAVIS, P.A.

.....

**DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF ERICKA L. DAVIS, P.A. MR. HAIRSTON SECONDED THE MOTION.**

.....

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

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

The motion carried.

# State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.  
Executive Director

(614) 466-3934  
med.ohio.gov



May 13, 2009

Case number: 09-CRF- 054

Ericka L. Davis, P.A.  
2535 Bellfield Street  
Kettering, Ohio 45420

Dear Ms. Davis:

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

- (1) On or about September 3, 2008, you caused to be submitted to the Board an Application for Physician Assistant Certificate to Practice [Application], which remains pending.
- (2) By letter dated March 25, 2009, the Board notified you of its determination that it had reason to believe that you are in violation of Section 4730.25(B)(5), Ohio Revised Code, and ordered you to undergo a 72-hour inpatient examination beginning on April 6, 2009, to determine if you are in violation of Section 4730.25(B)(5), Ohio Revised Code. The Board's determination was based upon one or more reasons outlined in such letter, including:
  - (a) In response to question nine of your Application, which asked if you had ever been convicted or found guilty of a violation of any law other than a minor traffic violation, you disclosed that in July 2007, you were charged with OMVI, and subsequently, you were found guilty of OMVI.
  - (b) You reported to the Board investigator that in 2002, you were involved in a car accident, and after the police responded, you left the scene. The following day, you went to the police station at the request of the police and cooperated. You reported that at the time of the accident, you were not intoxicated, however, you admitted that before this accident, you had wine with dinner.

*Mailed 5.14.09*

- (c) You further reported to a Board investigator that in 1998, when you were 19 years old, you were charged with OMVI, and consequently, the court found you guilty of OMVI, and your license was suspended for one year. You also reported to the Board investigator that after the above-mentioned license suspension, you were stopped by the police while driving and cited with Driving Under Suspension. You stated that before being stopped, you had consumed alcohol but were not impaired and therefore were not charged.
- (3) By letter dated April 9, 2009, from Christopher Adelman, M.D., of Glenbeigh Hospital [Glenbeigh], a Board-approved treatment provider in Rock Creek, Ohio, the Board was notified that following the Board-ordered evaluation, your diagnoses included alcohol abuse. Dr. Adelman further reported that you met the definition of impairment, which is 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 and that you require treatment by an approved treatment provider that complies with the administrative rules, which require inpatient treatment.

Your acts, conduct, and/or omissions as alleged in paragraphs (1), (2) and (3) above, individually and/or collectively, constitute “[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice,” as that clause is used in Section 4730.25(B)(5), Ohio Revised Code.

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

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

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

Ericka L. Davis, P.A.

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Please note that, whether or not you request a hearing, Section 4730.25(L), Ohio Revised Code, provides that “[w]hen the board refuses to grant to an applicant a certificate to practice as a physician assistant or a certificate to prescribe, revokes an individual’s certificate, refuses to issue a certificate, or refuses to reinstate an individual’s certificate, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold the certificate and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.  
Secretary

LAT/MAP/flb  
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3125 4243  
RETURN RECEIPT REQUESTED

cc: Eric J. Plinke  
Dinsmore & Shohl  
191 West Nationwide Blvd  
Columbus, Ohio 43215

CERTIFIED MAIL #91 7108 2133 3936 3125 4267  
RETURN RECEIPT REQUESTED