

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

IN RE:

KELLY PAUL CUMMINGS, P.A.

CONSENT ORDER

The West Virginia Board of Medicine ("Board") and Kelly Paul Cummings, P.A., ("Mr. Cummings") pursuant to the provisions of West Virginia Code §30-3-1 et seq., freely and voluntarily enter into the following:

FINDINGS OF FACT

1. In March, 1991, Mr. Cummings applied for certification as a physician assistant and reported on his application to the Board that he had been convicted of two (2) misdemeanors and had been required to attend a six (6) week course at Presteria Center in Huntington which was designed to inform and to enhance his insight concerning driving under the influence and substance abuse.

2. In support of his application, Mr. Cummings appeared before members of the Physician Assistant Committee and fully discussed these matters and the Physician Assistant Committee has reviewed and discussed his proposed job description.

3. It is in the public interest to certify Mr. Cummings as a physician assistant, provided certain limitations and conditions are attached to such certification, as practicing as a physician assistant without certain appropriate conditions and limitations could adversely affect the health and welfare of a patient.

CONCLUSIONS OF LAW

1. The foregoing facts constitute just cause for the Board to deny certification to Mr. Cummings under the provisions of West Virginia Code §30-3-16 and 11 CSR 1 24.14.

2. It is appropriate and in the public interest to certify Mr. Cummings as a physician assistant, subject to compliance by Mr. Cummings with certain conditions and limitations upon his certification as a physician assistant in this State.

CONSENT

Mr. Cummings consents and agrees solely and exclusively for the purpose of the entry of this Order to the following:

1. Mr. Cummings acknowledges that without his consent, no permanent legal action may be taken against him except after a hearing held in accordance with 11 CSR 1 24.13 and West Virginia Code §29A-5-1, et seq.;

2. Mr. Cummings further acknowledges that he has the following rights, among others: the right to a formal hearing before the West Virginia Board of Medicine, the right to reasonable notice of said hearing, the right to be represented by counsel at his own expense, and the right to cross-examine witnesses against him;

3. Mr. Cummings waives all such due process rights;

4. Mr. Cummings consents to the entry of this Order relative to his practice of medicine in the State of West Virginia; and,

5. Mr. Cummings understands that this Order is considered public information, and that matters contained herein may be reported, as required by law, to the National Practitioner Data Bank.

ORDER

WHEREFORE, on the basis of the foregoing Findings of Fact and Conclusions of Law of the Board, and the foregoing consent of Mr. Cummings, the Board hereby ORDERS as follows:

1. That Kelly Paul Cummings, P.A., is certified as a physician assistant in the State of West Virginia, effective May 28, 1991, at 12:01 a.m., subject to the following:

(a) The certificate of Mr. Cummings, Certificate No. 388, shall be in a probationary status for a period of two (2) years ending May 27, 1993, at 12:01 p.m.

(b) During his period of probation, Mr. Cummings shall refrain from the use of any controlled substances except for those specifically prescribed to him by a duly licensed physician, and Mr. Cummings shall refrain from the consumption of alcohol.

(c) Mr. Cummings shall submit to random and unannounced testing of bodily fluids four times annually, the arrangements for which tests shall be made by his supervising physician and the results of which shall be forwarded to the Board, and Mr. Cummings shall also submit to random and unannounced testing of bodily fluids upon demand of the Board at any time. All such testing shall be at Mr. Cummings' expense.

(d) Mr. Cummings shall attend three-hundred (300) meetings of Alcoholics Anonymous or Narcotics Anonymous annually and shall keep a log of his attendance for the two (2) years that this Order is

in effect, which log shall be reviewed periodically by his supervising physician and may be reviewed at the pleasure of the Board.

(e) Mr. Cummings shall seek and maintain a sponsor in Alcoholics Anonymous or Narcotics Anonymous who will be permitted to review his log and who will discuss his progress and meet with him at least on a weekly basis and who will consent and agree to be available to review periodically Mr. Cummings' progress with his supervising physician. A reasonable time will be allowed for any change of sponsor if necessary.

(f) Mr. Cummings' supervising physician shall submit written reports to the Board concerning his progress every sixty (60) days, beginning July 1, 1991, except, should the performance of Mr. Cummings at any time fall below the level of reasonable skill and safety, Mr. Cummings' supervising physician shall immediately notify the Board.

(g) Upon entering into this agreement, Mr. Cummings shall provide a copy of this Consent Order to his supervising physician and to his Alcoholics Anonymous and/or Narcotics Anonymous sponsor, and

within five (5) days of entering into this agreement, Mr. Cummings shall provide a copy of this Consent Order to any health care facility where he is employed, where he works, or enjoys privileges of any kind.


2. At the option of either party, this consent agreement or a modified version thereof may be again entered into by the parties at the end of the two (2) year period of probation.

Failure of Mr. Cummings to comply with the terms of this Order, as determined by the Board, shall constitute grounds for the revocation of his physician assistant certificate, No. 388, in the State of West Virginia.

Entered this 15th day of May, 1991.

WEST VIRGINIA BOARD OF MEDICINE


S. Eileen Catterson, M. D.
President


William T. Wallace, Jr., M.D., M.P.H.
Secretary


Kelly Paul Cummings, P.A.

Date: 5-20-91

STATE OF West Virginia

COUNTY OF Cabell, to-wit:

I, Donna J. Wheeler, a Notary Public for
said county and state do hereby certify that Kelly Paul Cummings,
P.A., whose name is signed on the previous page, has this day
acknowledged the same before me.

Given under my hand this 21st day
of May, 1991.

My Commission expires 8-19-97.

Donna J. Wheeler
NOTARY PUBLIC

