

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., and 11 CSR 1B 2.9, freely and voluntarily enter into the following:

FINDINGS OF FACT

1. In May, 1991, the Board issued Mr. Cummings certification as a physician assistant in West Virginia, Certificate No. 388, under a Consent Order wherein Mr. Cummings' certificate was placed in a probationary status for a two (2) year period ending May 27, 1993, and subject to certain specified conditions.

2. In September, 1993, Mr. Cummings appeared before the Physician Assistant Committee of the Board in order to discuss the Consent Order specified in paragraph 1, and whether either he or the Physician Assistant Committee wished to enter into any Consent Order, or a modified version of the Consent Order, for an additional period of time.

3. At the time of Mr. Cummings' appearance before the Physician Assistant Committee of the Board, Mr. Cummings acknowledged that he had not complied with all of the provisions of the Consent Order, and specifically, he had not complied with the requirement for attendance at a specific number of meetings of Alcoholics Anonymous or Narcotics Anonymous though all reports filed with the Board pursuant to the requirements of his Consent Order had specifically stated that Mr. Cummings was complying with such requirements.

4. Mr. Cummings has expressed the desire to enter into this Consent Order with the Board in lieu of proceeding to hearing on any charges the Board may file against him.

5. For Mr. Cummings to practice as a physician assistant without complying with certain restrictions and conditions could adversely affect the health and welfare of a patient.

#### CONCLUSIONS OF LAW

1. The West Virginia Board of Medicine has a mandate pursuant to West Virginia Code §30-30-1 to protect the public interest.

2. Probable cause exists to file charges against Mr. Cummings pursuant to the provisions of 11 CSR 1B 2.9(h), alleging misconduct in his practice as a physician assistant.

3. It is appropriate and in the public interest to waive the commencement of proceedings against Mr. Cummings as a physician assistant and to proceed without the filing of charges or a formal Complaint and Notice of Hearing, provided Mr. Cummings agrees to the provisions of this Consent Order.

#### 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 1B 2.9 and West Virginia Code §29A-5-1, et seq., and West Virginia Code §30-3-16;

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 any certification or licensure as a physician assistant 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 the Physician Assistant Certificate, now license, of Kelly Paul Cummings, P.A., No. 388 is SURRENDERED to the Board and SUSPENDED, effective October 2, 1993; and,

2. Mr. Cummings shall undergo a complete psychiatric examination, at his own expense, by a psychiatrist to be approved by the Board; and,

3. Mr. Cummings is hereby PUBLICLY REPRIMANDED for his failure to comply with all of the terms of the Consent Order into which he entered with the Board in May, 1991, and is fined \$2000, the receipt of which fine is acknowledged by the signatures hereon of the President and Secretary of this Board; and,

4. Before the Board shall reinstate any license to and on behalf of Mr. Cummings to practice as a physician assistant, either in whole or in part, Mr. Cummings shall appear before the Physician Assistant Committee of the Board with the results of

his psychiatric examination and with the physician he wishes to have as his supervising physician under the provisions of West Virginia Code §30-3-16.

The failure of Mr. Cummings to comply with any of the terms of this Consent Order, as determined by the Board, shall constitute grounds for the revocation of his licensure as a physician assistant by this Board.

Dated this 27<sup>th</sup> day of September, 1993.

WEST VIRGINIA BOARD OF MEDICINE

S. Eileen Catterson, M.D.  
S. Eileen Catterson, M. D.  
President

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

Kelly Paul Cummings, P.A.  
Kelly Paul Cummings, P.A.  
Date: 9/24/93

STATE OF West Virginia  
COUNTY OF Cabell, to-wit:

I, Sharon L. Wyrick, a Notary Public for said county and state do hereby certify that Kelly Paul Cummings, P.A., whose name is signed above, has this day acknowledged the same before me.

Given under my hand this 24 day of September 1993.

My Commission expires August 28, 2000.

Sharon L. Wyrick  
NOTARY PUBLIC

