

Before the Ohio
Occupational Therapy, Physical Therapy, and Athletic Trainers Board
Athletic Trainers Section

IN RE:

The eligibility of Jason Daniel Nutter,
AT002639, to have his license as an athletic
trainer reinstated in the State of Ohio

Case Number: AT-LD-FY16-001

Adjudication Order

This matter came for deliberation and decision before the Athletic Trainers Section of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board (hereinafter "Board") on the 9th day of November 2016 at a regular meeting of the Board.

Jason Daniel Nutter (hereinafter "Nutter") was present, and his counsel did not appear. Mr. Nutter's counsel did not submit written objections to the October 17, 2016, Report of Hearing Examiner Paul Stehura, in the Matter of Jason Daniel Nutter, A.T, Case No. AT-LD-FY16-001. The Board did not receive a request to address the Board at the meeting from Mr. Nutter or from his counsel.

Based on review of the evidence, transcript of testimony, and Report of Hearing Examiner, the Board voted to accept the Findings of Fact, Conclusions of Law, and the Recommendations made in terms 3, 4, 5, 6, and 7 as written, and to modify the Recommendations made in terms 1, 2, and 8 as follows:

1. Mr. Nutter shall continue to undergo individual counseling, at his cost, under the treatment of his current counseling team, at intervals determined by his counseling team for the duration of his probationary term of five years. Each member of his counseling team shall report, in writing, to the Board for the duration of the probationary period on a semiannual basis. The report shall include, but is not limited to: the description/status of counseling sessions provided to Mr. Nutter; any significant changes or concerns regarding Mr. Nutter's behavior or thoughts which may relate to or impact his fitness or ability to practice as an athletic trainer in Ohio or the safety of Mr. Nutter's patients or the general public; the need to refer Mr. Nutter for treatment/evaluation by a psychologist, psychosexual expert, or other health care professional. Mr. Nutter will agree to follow all treatment recommendations of his counseling team. If there are necessary changes to his counseling team, Mr. Nutter will notify the Board by electronic or written means within 14 business days. He will also notify the Board within 30 days with name, specialty, and contact information of the new counseling team member for approval.

2. Mr. Nutter shall execute all necessary authorizations for the Board to obtain all past, present, and future mental health/counseling records and reports prior to license reinstatement.
3. Mr. Nutter's license is permanently restricted to limit his athletic training practice to treatment of individuals over the age of 18. After the five year probationary period, Mr. Nutter may apply to the Board, in writing, to modify this restriction.

The rationale for the modifications listed above to the Hearing Officer's Recommendations include additional measures of protection for the health, safety, and welfare of the public. Additionally, the Hearing Officer recommended that the Board set additional conditions for Mr. Nutter's probation.

Exhibit A, as attached hereto, includes all conditions for reinstatement, as stated in the Report of Hearing Examiner and as incorporated by reference as if fully rewritten herein.

Thereafter, the Board voted to enter upon its Journal the following Order:

The athletic trainer license of Jason Daniel Nutter is hereby reinstated with restrictions, and placed in a probationary status.

The decision of the Athletic Trainers Section of the Board shall take effect immediately.

Mr. Nutter shall reimburse the Athletic Trainers Section of the Board for the following fees incurred for the administrative hearing, pursuant to section 4755.031 of the Ohio Revised Code:

Vendor	Purpose	Invoice #	Invoice Date	Amount
Paul Stehura, LLC	Hearing Officer	2017-002	10/17/2016	\$2,978.25
Deposition Specialists, Inc.	Court Reporter and Transcript	9196	09/23/2016	\$855.90
			TOTAL	\$3,834.15

Acceptable forms of payment include cashier's check, business check, or money order made payable to "Treasurer, State of Ohio." Payment may also be made via credit card by contacting the Board office. The Board office must receive payment no later than sixty (60) days after the effective date of this Order.

TIME AND METHOD TO PERFECT AN APPEAL

Ohio Revised Code Section 119.12 may authorize an appeal from this Order. Such an appeal must be commenced by the filing of a Notice of Appeal with the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board and in the court of common pleas of the county in which the place of business of the licensee is located or the county in which the licensee is a resident. If the party appealing from the order is not a resident of and has no place of business in this state, the party may appeal to the court of common pleas of Franklin County, Ohio. The Notice of Appeal must set forth the order appealed from and state that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The Notice of Appeal may, but need not, set forth the specific grounds of the party's appeal beyond the statement that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. Both Notices of Appeal must be filed with the Board and the applicable court within fifteen days after mailing of this notice of the agency's order, and in accordance with the provisions of Ohio Revised Code section 119.12.

By order of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board, Athletic Trainers Section.


Tony Tanner, Executive Director

12.5.16
Date of Mailing

CERTIFICATION

The State of Ohio,

County of Franklin, SS

I, the undersigned Executive Director for the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board, hereby certify that the foregoing is a true and exact reproduction of the original Order of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board, Athletic Trainers Section entered on its journal, on the 9th day of November 2016.



Tony Tanner, Executive Director

12-5-16

Date

Paul Stehura, LLC

Attorney at Law

115 West Main Street
Suite LL-50
Columbus, Ohio 43215

Telephone (614) 228-7888
Fax (614) 304-0102
paul@stehura-law.com

RECEIVED

OCT 17 2016

OHIO OTPTA BOARD

VIA HAND-DELIVERY

October 17, 2016

Mr. Tony Tanner
Executive Director
Ohio Occupational Therapy, Physical
Therapy and Athletic Trainers Board
77 South High St., 16th Fl.
Columbus, Ohio 43215-6108

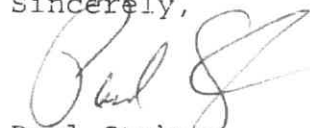
In Re: The Matter of Jason D. Nutter
Case No. AT-LD-FY16-001

Dear Mr. Tanner:

Enclosed please find a copy of my report and recommendation in the above-noted appeal. Also enclosed are the exhibits admitted and made part of the record.

Please contact me if you any questions regarding this matter.

Sincerely,



Paul Stehura
Hearing Examiner

Encs.

BEFORE THE OHIO OCCUPATIONAL
THERAPY, PHYSICAL THERAPY,
and ATHLETIC TRAINERS BOARD

RECEIVED

OCT 17 2016

OHIO OTPTAT BOARD

IN RE: : Hearing Examiner:
THE MATTER OF : Paul Stehura
JASON D. NUTTER : Case No. AT-LD-FY16-001
October 17, 2016

REPORT OF HEARING EXAMINER

This matter came on for hearing on Thursday, August 25, 2016, in Room 1960 of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio. This hearing was requested by an attorney for Jason D. Nutter (hereinafter "Respondent") on April 8, 2016 (See State's Exhib. 2) in response to the Athletic Trainer's Section of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board's (hereinafter "the Board's") issuance of a Notice of Opportunity for a Hearing dated March 17, 2016 ("Notice") (State's Exhib. 1) which provided notice that the Athletic Trainer's Section had voted to deny Respondent's November 20, 2015 application to reinstate Respondent's application to reinstate his Ohio license to practice as an athletic trainer Board (Respondent's Application) due to the nature and severity of the acts that resulted in the revocation of Respondent's previous Ohio license and insufficient evidence of rehabilitation. The Notice stated that its position is based on various section of Chapter 4755.64 of the Ohio Revised Code (ORC) and Ohio Administrative Code (OAC) § 4755-41-01.

Present at the hearing were Melissa Wilburn, Assistant

Attorney General, representing the Athletic Trainers Section of the Board. Lisa Ratinaud served as the Board's representative at the hearing. Respondent was also present and represented by his attorney, Ronald L. House, Esq. of Columbus, Ohio.

This Hearing Examiner gave a detailed description of the procedures to be utilized in the hearing and permitted the parties' counsel to ask any questions regarding the practices and procedures prior to the hearing itself.

The parties were afforded a full and fair opportunity to present testimonial and documentary evidence and make arguments supporting their respective positions. The record of the matter was closed immediately after the hearing.

PROCEDURAL MATTERS:

I specifically find that both the Respondent and the Board have complied with any and all procedural prerequisites for bringing this hearing in accordance with Ohio Revised Code Chapters 119 and 4755 and relevant administrative regulations. Additionally, I find that the Board issued proper notice of the Board's grounds for proposing to deny Respondent's Application and Respondent's right to a hearing. I further find that Respondent properly requested this hearing. It is also noted that Respondent stipulated that jurisdiction is proper. ([Transcript](Tr.) 9). Accordingly, it is my ruling that jurisdiction is proper and that this matter is properly before the Board for consideration.

Without objection, two of Respondent's witnesses in this matter, Philip L. Heagerty, LSW, and Stephen Dean, Ph.D., were permitted to provide their hearing testimony via telephone.

Additionally, at the conclusion of the hearing this Hearing Examiner ruled on the admissibility of the parties' exhibits. State's Exhibits 1-10 were admitted without objection. (Tr. 162). Respondent's Exhibits A-U were admitted without objection of the Board. (Id.). Respondent's Exhibits V, W, and X were admitted noting the Board's objection whether such reports are to be considered expert reports. (See discussion at Tr. 162-169).

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

WITNESSES APPEARING AT HEARING:

Respondent

1. Jason D. Nutter - Respondent, Alliance, Ohio.
2. Philip L. Heagerty, LSW - Respondent's Social Worker/counselor, Melymbrosia Associates, Canton, Ohio.
3. Stephen Dean, Ph.D - Respondent's psychologist, Melymbrosia Associates, Canton, Ohio.

Board

No witnesses presented.

FINDINGS OF FACT

1. Respondent is a 33 year old male who received his BS in athletic training from Kent State University in 2005 and a Master's Degree in Sports Science and Coaching from the University of Akron in 2007. (Tr. 16). He was first issued an Ohio athletic trainers license by the Board in January 2006 and also received his national certification in athletic training in November 2005. (Tr. 16-17). He has been married for eight (8) years and has two (2) children, ages 6 and 2. (Tr. 15-16).

2. Respondent has worked either full-time or part-time as an athletic trainer from 2005 to May 2012. Respondent served as a graduate assistant athletic trainer at the University of Akron for two (2) years beginning in 2005. (Tr. 17-18). He worked for Med Central Health Systems in Mansfield for one year beginning in 2007. (Tr. 18-19). He worked as an athletic trainer for Indian Valley High School in Tuscarawas County from July 2008 until his contract was terminated in May 2012. (Tr. 19-20). Respondent is currently employed in retail at J.C. Penny's in Alliance, Ohio and as a route service representative for an office/office wear rental company. (Tr. 155; Resp.'s Exhibs. T and U).

3. Beginning in April 2012, Respondent began "a relationship" with a 17-year old female student at Indian Valley High School. Respondent described that the relationship involved: texting, holding hands, kissing, and going to movies at a local mall. (Tr. 21-22). Additionally, the student texted at least five

(5)¹ pictures to Respondent's phone where she was topless (Id.) and Respondent talked to the student about having sex. (Resp.'s Exhib. W, p.2).

4. Respondent's relationship with the student lasted until sometime in May 2012 when it was discovered by Respondent's wife, the student's parents, and school officials. A police investigation ensued, which resulted in Respondent being criminally charged with "Contributing to the Delinquency of a Minor," a first degree misdemeanor pursuant to ORC § 2919.24(A)(1), in the Tuscarawas County Common Pleas Court on September 11, 2012. (Tr. 23; State's Exhib. 6, p.44). On November 2, 2012, Respondent, who was represented by counsel, pled no contest to this charge, stipulated to a finding of guilty, and was sentenced to 60 days in the Tuscarawas County Jail and payment of court costs. (State's Exhib. 6, p.46; Resp.'s Exhib. C). After serving 30 days of his jail sentence, Respondent was released from his jail term on the Court's own motion. (Tr. 23; State's Exhib. 6, p.48).

5. As a result of Respondent's actions as described in Findings of Fact ("FOF") Nos. 3 and 4 above, Respondent entered into a Surrender Consent Agreement with the Board in September 2012 in which, among other things, Respondent: admitted to engaging in an inappropriate relationship with a minor student; admitted that such conduct constituted a violation of the Board's statutes and

¹(Tr. 151-152).

subjected his license to discipline; voluntarily surrendered his then-existing Ohio athletic trainers license and agreed that the Board simultaneously revoked his license; and understood that he was not eligible to apply to have his license reinstated for at least one (1) year after the agreement. (Tr. 23; State's Exhib. 6, p.49-51).

6. On December 10, 2013, Respondent submitted an application to have his Ohio license reinstated. The Board found that Respondent provided insufficient evidence of his remorse, responsibility, or evidence of rehabilitation for his actions and denied the application on July 9, 2014. (State's Exhib. 6, p.52-56; Resp.'s Exhib. F). Respondent did not appeal the Board's determination. (Tr. 30, 145).

7. On December 1, 2015, the Board received a second application from Respondent to have his Ohio AT license reinstated. (State's Exhib. 6) ("Respondent's Application"). Various letters from current/past counselors accompanied the application as well as backup information regarding Respondent's: 2012 criminal conviction, 2012 surrender of his Ohio AT license; and completion of AT continuing education courses. (Id.).

8. On March 17, 2016, the Board issued to Respondent the Notice (State's Exhib. 1) which stated that the Athletic Trainers Section of the Board voted to deny Respondent's Application "due to the nature and severity of the acts that resulted in the revocation

of his (AT) license and insufficient evidence of rehabilitation" pursuant to ORC § 4755.64 and OAC § 4755-43-10(B). The Notice further advised Respondent of his right to request a hearing on the matter.

9. Via letter dated April 8, 2016, Respondent's attorney timely requested a hearing in accordance with the Notice. (State's Exhib. 2).

Jim Fedorka, M.S., L.P.C.

10. Within a few weeks following the discovery of his inappropriate relationship with the 17-year old female Indian Valley High School student and months prior to him being criminally charged for that relationship, Respondent presented to Jim Fedorka, M.S., L.P.C. of Encompass Christian Counseling, Foster Care and Adoption Services ("Encompass") in northeast Ohio for professional counseling to talk to someone "to process what was happening in his life and to release his emotional pain," "work on healing his marriage," and "learning healthy ways to deal with the stressors of life." (State's Exhib. 6, p.3-4). Respondent received counseling from Fedorka in 2012 and then regularly² on a weekly/bi-weekly basis from March 2014 through June 2015. (Id.; Tr. 31-32). Among other things, Fedorka reported that Respondent: "demonstrated remorse for his behavior;" "demonstrated a strong desire to make changes in his life;" was "successful in improving his relationship

² Respondent estimated 20-25 visits total (Tr. 31-32).

with his wife," and demonstrated a strong desire to have his AT license reinstated. (Id.). Respondent currently continues to receive counseling from Fedorka on a monthly basis. (Tr. 125; Resp.'s Exhib. M).

Timothy T. Morber, M.Ed., LPCC-S

11. Beginning in July 2015, Respondent was referred to Timothy T. Morber, M.Ed., LPCC-S, also of Encompass, for psychosexual therapy. (State's Exhib. 6, p.5). In mid 2015, Morber administered two nationally-recognized "psychosexual assessments" to determine Respondent's risk level. Morber reported that "[o]n the Static-99 (Respondent) was rated as a 'low' risk and on the RRASOR (Rapid Risk Assessment for Sexual Offender Recidivism) he scored with a 92.4% positive rating indicating less than one chance out of ten risk factor." (Id.).

Melymbrosia Associates

12. In May 2016 Respondent engaged Melymbrosia Associates of Canton, Ohio ("Melymbrosia") to complete assessments and treatment of him to assist in Respondent's efforts to have his Ohio AT license reinstated. (Tr. 75-77). Consultation and counseling from Melymbrosia occurred under the direction of Stephen Dean, Ph.d and involved Philip W. Heagerty, LSW.

Stephen Dean, Ph.d

13. Beginning in May 2016, Stephen Dean, Ph.d, Melymbrosia's Clinical Director, saw Respondent a total of three (3) times - once

for completion of testing and twice for clinical interviews/assessments to attempt to obtain/review other collateral information about Respondent. (Tr. 77). Dr. Dean administered two (2) common personality test inventories to determine if there was any indications of psychopathology. The first test was the Minnesota Multiphasic Personality Inventory-2 (MMPI-2), which revealed no psychopathology. (Tr. 80; Resp.'s Exhib. W). The second test, the Millon Clinical Multiaxial Inventory-III (MCMI-III), showed that Respondent was suffering from an anxiety disorder, which caused him to be frequently anxious, and was prone to be dependent (Tr. 80-81; Resp.'s Exhib. W), which Dean believed contributed to Respondent's activities with the student. (Tr. 83). Additionally, Dr. Dean saw nothing regarding Respondent's family or social history which would contribute to such behavior as well as no contributing alcohol/substance, sexual history, or impulsive behavior which would cause concern. (Tr. 81-83, 103).

14. Dr. Dean also conducted a Sex Offender Needs Assessment Rating ("SONAR"), which evaluates a person's various dynamic variables to determine the recidivism likelihood for similar behavior of Respondent. Respondent's SONAR score was minus one (-1), which places him in the low risk category relative to other adult males. (Tr. 85-88; Resp.'s Exhib. W.). A Static-99 test was also administered to Respondent, the results of which also placed

him in the low risk category for recidivism. (Id.).³

15. Dr. Dean concluded that Respondent is not in need of traditional sex offender treatment and recommended that Respondent continue to address his dependency issues in a therapy. (Tr. 89; Resp.'s Exhib. W.).

Philip W. Heagerty, LSW

16. Under the direction of Stephen Dean, Ph.d, Respondent saw Philip W. Heagerty, LSW on seven (7) occasions from May-August 2016. (Tr. 49). Heagerty testified that, from the counseling sessions, Respondent "accepts full responsibility" for his behavior involving the high school student, did not deny any responsibility therefor, and "did not offer any minimization or justification for his inappropriate behavior" (Tr. 50-51, 54, 68-69; Resp.'s Exhib. V). Heagerty also stated that, in his opinion, there was nothing in Respondent's past history or attitudes which support reoccurrence of or predisposition to inappropriate behavior with adolescent females (Tr. 53-55, Exhib. V) and that Respondent has a much better understanding the issues and stressors in his life which brought about his previous inappropriate behavior. (Tr. 55-56). Finally, as a therapist, Heagerty believes Respondent deserves a second chance at licensure. (Tr. 57).

³ Dr. Dean testified about being unsure of the Static-99 results derived by one of Respondent's previous therapists (Morber) (See discussion at Tr. 112-115); however, Respondent's results of the Static-99 administered by Dr. Dean placed Respondent in a low risk category for recidivism (Resp.'s Exhib. W), similar to the conclusion of the previous therapist.

17. After initially denying Respondent's application for reinstatement of his national AT certification in December 2013 (State's Exhib. 6, pp. 59-60), the NATA Board of Certification voted unanimously to reinstate Respondent's national AT certification in January 2016. (State's Exhib. 7; Resp.'s Exhib. L). Respondent's reinstatement expressly states that his certification is on probation for two years during which Respondent must be seen by a counselor at least semi-annually and that the counselor must submit to the NATA Board written reports in June and December of 2016 and 2017. (Id.). Among other submissions, Respondent's November 2015 application for reinstatement (Resp.'s Exhib. K) included a letter from Counselor Fedorka documenting Respondent's counseling achievements. (Resp.'s Exhib. I).

18. Respondent testified that, through counseling, he understands the: severity of his actions with the high school student; possible impacts on the student involved (Tr. 127-128); and insights how to prevent any similar activity in the future. (Tr. 148-149). He states that he has a strong support team comprised of his wife and his and his wife's family members (Tr. 126-127) and that he intends to continue counseling regardless of the Board action on Respondent's Application. (Tr. 128, 155-156). He further stated his love and passion for being an athletic trainer and that he "would never put (him)self back in a position" to jeopardize his AT license if it is reinstated. (Tr. 128-132).

19. Having considered all evidence submitted by the parties, including but not limited to, the test results and reports of Respondent's psychologist and counselors, I find that Respondent has proven by a preponderance of evidence, at this time, that he: has a full appreciation of the nature and severity of his 2012 inappropriate relationship with the 17-year old high school student; immediately took steps (without being mandated by the criminal justice system) to undertake appropriate evaluation and counseling to identify and deal with the causes for his previous behavior; takes responsibility for, and is remorseful about, his actions toward the high school student; has successfully followed through, and continues to do so, on all actions recommended by his psychologist and/or counselors; is clearly motivated to understand and incorporate all recommendations of his psychologist/therapists; is fully capable of addressing any issues of dependency through his therapy; had no psychopathology based on testing; is viewed after being administered various nationally-recognized tests to be a "low" risk to recidivate his inappropriate behavior in the future; with continued counseling and implementation of specified probationary terms, would not pose an undue threat to health and safety of those he treats in the future or members of the Ohio general public.

CONCLUSIONS OF LAW

A. Section 4755.47 of the Ohio Revised Code (ORC), in

pertinent part, states:

§ 4755.47. Disciplinary actions.

(A) In accordance with Chapter 119. of the Revised Code, the athletic trainers section of the Ohio occupational therapy, physical therapy, and athletic trainers board may suspend, revoke, or refuse to issue or renew an athletic trainers license, or reprimand, fine, or place a licensee on probation, for any of the following:

(12) Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including athletic training, for any reason other than a failure to renew, in Ohio or another state or jurisdiction.

(C) A licensee whose license has been revoked under division (A) of this section may apply to the athletic trainers section for reinstatement of the license one year following the date of revocation. The athletic trainers section may accept or deny the application for reinstatement and may require that the applicant pass an examination as a condition for reinstatement.

####. (emphasis added).

B. Ohio Administrative Code (OAC) § 4755-43-10(B), in part, states:

§ 4755-43-10 Reinstatement or reconsideration of denied/revoked license.

(B) In evaluating an application for reinstatement of a license or reconsideration of denial of a license, the athletic trainers section shall consider the following:

(1) The nature and severity of the acts that resulted in revocation or denial of license;

- (2) The time elapsed since the commission of the acts;
- (3) Possible additional violations occurring after the revocation or denial;
- (4) Compliance with previous orders of the athletic trainers section; and
- (5) Any evidence of rehabilitation that the applicant may submit to the section.

####. (emphasis added).

C. ORC § 4755.47(A)(12) authorizes the Board to revoke, refuse to issue or renew, or place on probation an athletic trainers license based on a previous "(d)enial, revocation, suspension, or restriction of authority to practice . . . athletic training, for any reason other than a failure to renew" an athletic trainers license. Specifically addressing a previous revocation of an athletic trainers license, ORC § 4755.47(C) expressly gives the Board discretion to accept or deny an application to reinstate a previously revoked license.

D. OAC § 4755-43-10(B) mandates that the Board consider various factors for an application to reinstate a athletic trainers license which was previously revoked. These factors include: the nature and severity of the acts leading to revocation; the time elapsed since the commission of the acts; and any evidence of rehabilitation that the applicant may submit to the Board.

E. In determining the recommendation in this matter, this Hearing Examiner has considered all relevant requirements of OAC § 4755-43-10(B), particularly the nature and severity of the acts and Respondent's evidence of rehabilitation. No one disputes that

nature and severity of Respondent's clearly inappropriate relationship with the high school student.⁴ Though potentially impactful on the student herself, Respondent immediately took full responsibility for his actions and sought, on his own, comprehensive evaluation and counseling to not only determine the cause of his actions but how to identify and avoid any recurrence of the situations leading to such feelings/actions in the future. He has been independently evaluated and tested by two (2) professionals, including a sex offender specialist and a psychologist. Each have concluded that Respondent is not in need of traditional sex offender treatment and is capable of addressing any necessary issues in individual therapy. In that regard, Respondent has maintained constant individual therapy with licensed counselors since the inappropriate relationship was discovered and is successfully maintaining counseling with two (2) counselors currently.

F. In regards to whether Respondent poses any risk to anyone he treats in the future or the public in general, all appropriate tests of Respondent have concluded that he is a "low" risk to recidivate his inappropriate conduct in the future. At the hearing, the Board made certain issue that "low" risk is not "no risk."⁵ Admittedly, that is true; however, it is impossible to conclude that there is a guarantee (no risk) that any person, whether they

⁴ (Tr. 172-173).

⁵ (Tr. 180).

had previous questionable conduct or not, possesses no risk to engage in any inappropriate behavior.⁶ Accordingly, that Respondent is a low risk to recidivate under several different assessments is consistent and evidence of low concern for public safety.

G. Based on all Findings of Fact and Conclusions of Law, it is my conclusion that, upon consideration of all relevant factors of OAC § 4755-43-10(B), Respondent's Application should be granted; however, such action should only be taken in concert with the specific probationary terms recommended in my Recommendation below and/or other terms instituted by the Board. Such probationary terms are specifically designed to address such items as: the nature and severity of Respondent's original actions; assurance that Respondent maintains his counseling sessions; the safety concerns for the general public raised by the Board; and providing a review procedure of Respondent's future actions if his license is reinstated.

H. This Hearing Examiner's recommendation in this matter does not constitute a final order of the Board. Only the Board has authority to issue a final order in this administrative action. Pursuant to ORC Chapters 4755 and 119, the Board shall review the instant Report and Recommendation of the Hearing Examiner along with any objections timely filed by the parties and determine whether to approve, modify or disapprove this Report and Recommendation or specific findings or conclusions herein, or the

⁶ (Tr. 115).

Board may remand to the Hearing Examiner for further findings before issuing its final order.

RECOMMENDATION

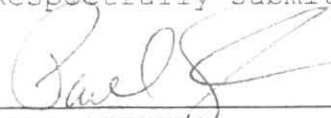
Based on the findings and conclusions stated herein, namely that Respondent, Jason D. Nutter, has provided sufficient evidence of his rehabilitation pursuant to and OAC § 4755-27-43-10(B), it is my recommendation that Mr. Nutter's application for reinstatement of his license to practice as an athletic trainer in the state of Ohio, which was received by the Board on or about December 1, 2015, be APPROVED subject to appropriate PROBATIONARY terms as determined by the Board for a period of not less than five (5) years, which may include the following:

1. Mr. Nutter shall continue to undergo individual counseling at his cost under the treatment of at least one (1) of his current licensed social workers (LSW) or other health care professional approved by the Board, at intervals set by the Board for the duration of the probationary period. Said LSW or health care professional shall report in writing to the Board on a semi-annual basis, or other interval set by the Board: the description/status of counseling sessions provided to Mr. Nutter; any significant changes or concerns regarding Mr. Nutter's behavior or thoughts which may relate to or impact his fitness or ability to practice as an athletic trainer in Ohio or the safety of Mr. Nutter's patients or the general public; the need to refer Mr. Nutter for treatment/evaluation by a psychologist, psychosexual expert, or other health care professional; and other areas identified by the Board.
2. Mr. Nutter shall execute all necessary authorizations for the Board to obtain all past and present mental health/counseling records and reports.

3. Mr. Nutter shall provide to all prospective employers from whom he is seeking to provide athletic training services in Ohio a copy of the September 6, 2012 Surrender Consent Agreement with Board as well as a copy of the Board Adjudication Order reinstating his Ohio athletic trainers license ultimately issued as a result of the Board's Notice of Opportunity for Hearing dated March 17, 2016.
4. Within 14 days of his being hired to provide services under his Ohio athletic trainers license, Mr. Nutter shall provide written notice to the Board identifying: the name, address, supervisor, and contact information for the employer; the date of hire; a description of the type of individuals to whom he will be providing services; and the anticipated number of hours per week he will be providing athletic training services. Respondent shall provide written updates to the Board within 14 days if any such employment terminates or is modified.
5. All employers for whom Mr. Nutter provides athletic training services shall provide to the Board on an annual basis a written report which shall: confirm Mr. Nutter's employment, job title, and job duties; describe the individuals and type of services for whom Mr. Nutter provides athletic training services; detail any complaints the employer has received about Mr. Nutter; and cover any other areas requested by the Board.
6. Mr. Nutter shall appear before the Board or its designee as requested by the Board.
7. Mr. Nutter shall obey all federal, state and local laws and rules governing the practice of athletic trainers in Ohio.
8. Any other probationary terms requested by the Board.

Upon successful completion of all probationary terms after reinstatement, Mr. Nutter's license to practice as an athletic trainer in Ohio shall then be fully restored by the Board.

Respectfully submitted,



PAUL STEHURA
Hearing Examiner

October 17, 2016
Date