

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BEFORE THE STATE BOARD OF MEDICINE

In the Matter of the Application for a  
License to Practice as a Medical Athletic  
Trainer filed by Jason Daniel Nutter,  
Applicant

File No.: 17-49-04904

Docket No: 1218-49-17

FINAL ORDER

AND NOW, this 16<sup>th</sup> day of July 2017, the State Board of Medicine (Board) upon consideration of the April 28, 2017 provisional denial of Jason Daniel Nutter's (Applicant) application for a license to practice as a medical athletic trainer in the Commonwealth of Pennsylvania, which notified Applicant of the opportunity to appeal and/or request a hearing on the matter within thirty (30) days, and having received no appeal or request for hearing from Applicant, the Board **ORDERS** that the provisional denial is now the **FINAL ORDER** in this matter. A copy of the Board's provisional denial is attached as **Attachment A**.

This Order shall take effect immediately.

BUREAU OF PROFESSIONAL AND  
OCCUPATIONAL AFFAIRS



IAN J. HARLOW  
COMMISSIONER

Applicant:

Prosecuting Attorney:

BY ORDER:

STATE BOARD OF MEDICINE



MARILYN J. HEINE, M.D.  
CHAIR

Jason Daniel Nutter  
2073 Center Avenue  
Alliance, OH 44601

Jason T. Anderson, Esq.  
Department of State  
P.O. Box 69521  
Harrisburg, PA 17106-9521

Board Counsel:

Peter D. Kovach  
Board Counsel

Date of mailing:

July 6, 2017

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# ATTACHMENT A



COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF GENERAL COUNSEL

Peter D. Kovach  
Senior Counsel in Charge

pkovach@pa.gov  
Counsel Division

April 28, 2017

Jason Daniel Nutter  
2073 Center Ave.  
Alliance, OH 44601

RE: Application for a license to practice as a medical athletic trainer in the Commonwealth of Pennsylvania

Dear Mr. Nutter:

The State Board of Medicine reviewed your application for a license to practice as a medical athletic trainer in the Commonwealth of Pennsylvania at its April 25, 2017 meeting. Following a review of your application and related documents, the Board voted to provisionally deny your application for the reasons set forth in this letter.

Sections 22(c) and 41(1, 3, 4, and 8) of the Pennsylvania Medical Practice Act ("MPA")<sup>1</sup>, 63 P.S. 422.22(c) and 422.41(1, 3, 4, and 8), authorize the Board to refuse to issue a license when an applicant has failed to demonstrate the qualifications or standards for licensure; when a license or authorization to practice has been denied or disciplined in another jurisdiction or by a branch of the Federal Government; when an applicant has been convicted of any felony, or has been convicted of a misdemeanor relating to a health profession; and when an applicant is guilty of immoral or unprofessional conduct (which includes departure from the ethical or quality standards of the profession). Section 9124(c)(2) of the Criminal History Record Information Act ("CHRIA"), 18 Pa. C.S.A. § 9124(c)(2) also authorizes the Board to refuse to issue a license to any applicant who has been found guilty of a misdemeanor related to the practice of the profession.

During the review of your application, the Board noted that on November 2, 2012 you were found guilty in the Court of Common Pleas, Tuscarawas County, Ohio at Case Number 12CO00428 of violating section 2919.24 of the Ohio Revised Code (related to contributing to unruliness or delinquency of a child) a misdemeanor of the first degree. You were sentenced to sixty days in jail, which was subsequently reduced via the court's sua sponte order to 30 days. The information in your application further indicates that the criminal charges were brought against you because, while you worked as an athletic trainer for Indian Valley High School in Tuscarawas County, Ohio, you began "a relationship" with a 17-year old female student which was described as "texting, holding hands, kissing, and going to movies at a local mall." Additionally, the student sent you at least five (5) pictures in which the student was topless and you talked to the student

<sup>1</sup> Act of December 20, 1985, P.L. 457, No. 112, 63 P.S. §§ 422.1-422.53



about having sex. In addition to the criminal conviction, it appears that in 2012 you surrendered your Ohio authorization to practice as an athletic trainer<sup>2</sup> due to your conduct and the pending criminal matter; in 2014 your application for reinstatement was denied by the Ohio Board; and in 2016 your application for reinstatement was granted by the Ohio Board, but subject to terms and conditions including a "permanent restrict[ion] to limit [your] athletic training practice to treatment of individuals over the age of 18."

A provisional denial is subject to appeal and an opportunity for a formal public hearing. Please note that the withdrawal of an application or any final adverse decision following a provisional denial is considered to be a public action reportable to the National Practitioner Databank ("NPDB"). If you wish to appeal the provisional denial of your license, you may do so by filing a written request on or before Wednesday, May 31, 2017 addressed to:

Peter D. Kovach, Esq.  
Board Counsel, State Board of Medicine  
P.O. Box 69523  
Harrisburg, Pennsylvania 17106-9523.

Your appeal letter must state all factual and legal bases for your appeal. If you desire to present written or testimonial evidence to the Board, you must also include with your appeal a written request for a hearing.

All proceedings are held before an administrative hearing examiner and are conducted pursuant to the Administrative Agency Law, 2 Pa. C.S. §§ 501-508, 701-704 and the General Rules of Administrative Practice and Procedure ("GRAPP"), 1 Pa. Code §§ 31.1-35.251, *as amended*. At the formal hearing, you will have the burden of proving that you possess the qualifications for licensure and fitness to practice and that the noted concerns should not act as a bar to granting your license. You will be permitted to present evidence in support of your appeal. You will be given the opportunity to testify on your own behalf, to bring witnesses, and to offer documentary evidence. The documents that you previously submitted in support of your application will be made part of the formal record. While you are not required to be represented by an attorney at the hearing, this office recommends that you at least consider speaking with your own attorney prior to the hearing to receive advice on how you can best attempt to meet your burden of proof and to discuss other pertinent issues, such as applicable procedural rules and any evidentiary rules which might affect the admissibility of evidence and witnesses you may wish to offer.

So that a complete record may be made for the Board to consider, an attorney from the Prosecution Division will be permitted to participate during the hearing and will be permitted to ask questions of you and your witnesses. The prosecuting attorney would also be permitted to offer additional evidence and/or witnesses which may tend to show that granting a license to you would not be appropriate. The prosecuting attorney may object to evidence and witnesses presented by you if there are concerns with the relevance and/or admissibility of the testimony/evidence and you would have the opportunity to object to any evidence or witnesses

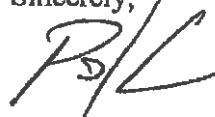
<sup>2</sup> It also appears that you agreed to the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainer's Board, Athletic Trainers Section simultaneously revoking your license



offered by the prosecuting attorney. In such a case, the designated hearing examiner would make any necessary rulings on the admissibility of the evidence sought to be presented.

A stenographic record of the hearing will be made and all testimony will be given under oath. You will be provided an opportunity to file a post-hearing brief. The hearing examiner will issue a written proposed decision on the matter, based upon consideration of the evidentiary record and any legal briefs. The Board will review the proposed decision at a future Board meeting and will then issue a final decision in due course.

Sincerely,



Peter D. Kovach  
Board Legal Co-counsel  
State Board of Medicine

PDK/pdk

cc: Suzanne M. Zerbe, Board Administrator  
State Board of Medicine

Anita P. Shekletski, Esquire  
Prosecution Liaison



## NOTICE

The attached Final Order represents the final agency decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a Petition for Review with that Court within 30 days after the entry of the order in accordance with the Pennsylvania Rules of Appellate Procedure. See Chapter 15 of the Pennsylvania Rules of Appellate Procedure entitled "Judicial Review of Governmental Determinations," Pa. R.A.P 1501 – 1561. Please note: An order is entered on the date it is mailed. If you take an appeal to the Commonwealth Court, you must serve the Board with a copy of your Petition for Review. The agency contact for receiving service of such an appeal is:

Board Counsel  
P.O. Box 69523  
Harrisburg, PA 17106-9523

The name of the individual Board Counsel is identified on the Final Order.