Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board
77 South High Street, 16th Floor
Columbus, Ohio 43215-6108

Governor
Ted Strickland
Executive Director
Jeffrey M. Rosa

Before The Ohio
Occupational Therapy, Physical Therapy, and Athletic Trainers Board

Physical Therapy Section

John P. Kawa
2560 Sawmill Reserve
Powell, OH 43065

IN RE:
The eligibility of John P. Kawa, PTA04642, to retain his license as a Physical Therapist Assistant in the State of Ohio

Case No: 07-080-PT

Issue Date: June 30, 2008

Notice of Opportunity for a Hearing

Introduction and Jurisdiction

Section 4755.47(A) of the Ohio Revised Code authorizes the Board to refuse to grant a license to an applicant for an initial or renewed license as a physical therapist or physical therapist assistant or, by an affirmative vote of not less than five members, may limit, suspend or revoke the license of a physical therapist or physical therapist assistant or reprimand, fine or place a license holder on probation, on any of the following grounds:

> (3) Obtaining or attempting to obtain a license issued by the physical therapy section by fraud or deception, including making of a false, fraudulent, deceptive, or misleading statement;
>
> (6) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate sections 4755.40 to 4755.56 of the Revised Code or any order issued or rule adopted under those sections;
>
> (22) Failure to complete continuing education requirements as prescribed in section 4755.51 or 4755.511 of the Revised Code or to satisfy any rules applicable to continuing education requirements that are adopted by the physical therapy section;

In accordance with Chapter 119 and section 4755.47 of the Ohio Revised Code, you are hereby notified that the Physical Therapy Section of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board (hereinafter, "Board") intends to determine whether or not to limit, suspend or revoke your physical therapist assistant license, or reprimand, fine or place you on probation for one or more of the following reasons:

Count 1

On March 21, 2008, **Kawa** submitted verification of continuing education credits earned for the renewal period of February 1, 2006 through January 31, 2008, as a result of being randomly selected by the Board for an audit for continuing education hours. An investigation into the certificates of completion that were submitted by **Kawa** revealed that the certificates of completion for the Dietary Minerals course for 5 contact hours completed on December 28, 2008 and the HIV AIDS Update course for 1 contact hour completed on December 28, 2008 were falsified, and that these two (2) courses were not completed. Said conduct constitutes a violation of Ohio Revised Code Section 4755.47(A)(3) & (6).

Count 2

On March 21, 2008, **Kawa** submitted verification of continuing education credits earned for the renewal period of January 1, 2006 through January 31, 2008, as a result of being randomly selected by the Board for an audit for continuing education hours. A review of the information submitted revealed that **Kawa** accounted for 6 of the 12 hours of continuing education required for his 2008 license renewal. Said conduct constitutes a violation of Ohio Revised Code Section 4755.47(A)(6) & (22), 4755.511, and Ohio Administrative Code rule 4755-23-08.

Ohio Revised Code section 4755.51 states in pertinent part:

Except in the case of a first license renewal, a physical therapist assistant is eligible for renewal of the physical therapist assistant's license only if the physical therapist assistant has completed twelve units of continuing education in one or more courses, activities, or programs approved by the physical therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board.

On request of the physical therapy section, an applicant for license renewal shall submit evidence satisfactory to the section of completion of the required continuing physical therapist assistant education.

Ohio Administrative Code rule 4755-23-08 states in pertinent part:

Pursuant to sections 4755.5 and 4755.511 of the Revised Code, no person shall qualify for license renewal as a physical therapist or physical therapist assistant unless the individual completed the required continuing education units (CEU's) outlined in paragraph (A) of this rule. A "unit" is one clock hour spent in a continuing education activity meeting the requirements established in section 4755.52 of the Revised Code.

(A) Physical therapists and physical therapist assistants shall participate in continuing education activities that meet the requirements outlined in division (B) of

section 4755.52 of the Revised Code

(1) A physical therapist must complete twenty-four units of continuing education activities within the two year renewal cycle.

(2) A physical therapist assistant must complete twelve units of continuing education activities within the two year renewal cycle.

(B) Accumulated CEU's may not be carried over from one renewal period to another.

(C) Pursuant to sections 4755.52 and 4755.53 of the Revised Code, the physical therapy section may contract with the Ohio physical therapy association (OPTA) to assist the section with the performing of its continuing education duties. The OPTA shall accept, review, approve, or deny proposals for professional workshops, seminars, and/or conferences for continuing education units or for other continuing education activities reported by physical therapists and physical therapist assistants who qualify under section 4755.53 of the Revised Code. The OPTA shall perform any other duties agreed upon by the section and the OPTA necessary for the approval, maintenance, and/or reporting of continuing education activities for physical therapist and physical therapist assistants.

(D) A license shall not be renewed unless the licensee meets the requirements of paragraph (A) of this rule. Completed continuing education activities shall have a current Ohio approval number.

(E) The physical therapy section shall conduct an audit of the continuing education records of a number of the licensees to be determined by the section each renewal year. The section will notify licensees who are selected for the audit to determine compliance with the continuing education requirement specified in this rule.

(1) Licensees chosen for the audit shall submit to the board by the date specified by the board copies of all records and documentation of proof of completion of the continuing education activities used to meet the continuing education requirements of this rule.

(2) Failure to provide proof of the required number of continuing education hours for the specified time period will result in the commencement of disciplinary action.

(3) Failure to respond to or acknowledge receipt of an audit notice will result in the commencement of disciplinary action.

(F) A physical therapist or physical therapist assistant license shall not be renewed unless the licensee certifies that the individual completed the required number of continuing education hour specified in paragraph (A) of this rule.

A licensee who falsifies a renewal application may be disciplined by the physical therapy section for violating section 4755.48 of the Revised Code.

Hearing Procedures

Pursuant to section 119.07 of the Ohio Revised Code, you have the right to request a hearing on these charges, if your written request for a hearing is received by the Board office, located at 77 South High Street, 16th Floor, Columbus, OH 43215, within thirty (30) days of the mailing of this Notice. Further, you are advised that you are entitled to

appear at such hearing in person, or by an attorney, or by such other representative who is permitted to practice before the agency. At the hearing, you may present evidence and examine witnesses appearing for or against you. Also, In lieu of personally appearing, you may present your positions, arguments or contentions in writing.

If you do not timely request such a hearing, the Board, upon consideration of the charges cited, may, in your absence, take such disciplinary action it deems appropriate. This action may include, but is not limited to, suspension or revocation of your license.

Please be advised that under section 4755.031 of the Ohio Revised Code, a person sanctioned under section 4755.11, 4755.47, 4755.482, or 4755.64 of the Revised Code shall pay a fee in the amount of the actual cost of the administrative hearing including the cost of the court reporter, the hearing officer, transcripts, and any witness fees for lodging and travel, as determined by the appropriate section of the board. The fee shall be collected by the appropriate section.

By Order of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board:
Physical Therapy Section

Jeffrey M. Rosa
Executive Director

cc: Yvonne Tertel, Principal Assistant Attorney General

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Physical Therapy Section

IN RE:
The eligibility of John P. Kawa,
PTA04642, to retain his license as a
Physical Therapist Assistant in the
State of Ohio

Case #: PT-07-080

Consent Agreement

This Consent Agreement ("Agreement") is entered into by and between **John P. Kawa**, ("**Kawa**") and the OHIO OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND ATHLETIC TRAINERS BOARD, PHYSICAL THERAPY SECTION ("Board").

The Board is a state agency, charged with enforcing relevant provisions of Ohio Revised Code Chapter 4755 and all rules promulgated thereunder. **Kawa** hereby enters into this Agreement being fully informed of his rights, including those under Chapter 4755 and Chapter 119, Ohio Revised Code, including the right to representation by counsel and an adjudication hearing.

In consideration of the foregoing and mutual promises hereinafter set forth, **Kawa** and the Board hereby agree as follows:

Jurisdiction and Predicate Facts

1. The Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board, Physical Therapy Section, is empowered by section 4755.47(A) of the Ohio Revised Code to refuse to grant a license to an applicant for an initial or renewed license as a physical therapist or physical therapist assistant or, by an affirmative vote of not less than five members, may limit, suspend, or revoke the license of a physical therapist or physical therapist assistant or reprimand, fine, or place a license holder on probation, on any of the following grounds:

    (3) Obtaining or attempting to obtain a license issued by the physical therapy section by fraud or deception, including making of a false, fraudulent, deceptive, or misleading statement;

    (6) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate sections

4755.40 to 4755.56 of the Revised Code or any order issued or rule adopted under those sections;

(22) Failure to complete continuing education requirements as prescribed in section 4755.51 or 4755.511 of the Revised Code or to satisfy any rules applicable to continuing education requirements that are adopted by the physical therapy section;

2. **Kawa** currently holds a license to practice as a physical therapist assistant in the State of Ohio, and is subject to all laws and rules of Ohio regulating the practice of physical therapy.

3. On March 21, 2008, **Kawa** submitted verification of continuing education credits earned for the renewal period of February 1, 2006 through January 31, 2008, as a result of being randomly selected by the Board for an audit for continuing education hours. An investigation into the certificates of completion that were submitted by **Kawa** revealed that the certificates of completion for the Dietary Minerals course for 5 contact hours completed on December 28, 2008 and the HIV AIDS Update course for 1 contact hour completed on December 28, 2008 were falsified, and that these two (2) courses were not completed. Said conduct constitutes a violation of Ohio Revised Code Section 4755.47(A)(3) & (6).

4. On March 21, 2008, **Kawa** submitted verification of continuing education credits earned for the renewal period of January 1, 2006 through January 31, 2008, as a result of being randomly selected by the Board for an audit for continuing education hours. A review of the information submitted revealed that **Kawa** accounted for 6 of the 12 hours of continuing education required for his 2008 license renewal. Said conduct constitutes a violation of Ohio Revised Code Section 4755.47(A)(6) & (22), 4755.511, and Ohio Administrative Code rule 4755-23-08.

5. Ohio Revised Code section 4755.511 states in pertinent part:

   Except in the case of a first license renewal, a physical therapist assistant is eligible for renewal of the physical therapist assistant's license only if the physical therapist assistant has completed twelve units of continuing education in one or more courses, activities, or programs approved by the physical therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board.

   On request of the physical therapy section, an applicant for license renewal shall submit evidence satisfactory to the section of completion of the required continuing physical therapist assistant education.

6. Ohio Administrative Code rule 4755-23-08 states in pertinent part:

   Pursuant to sections 4755.51 and 4755.511 of the Revised Code, no person shall qualify for license renewal as a physical therapist or physical therapist assistant unless the individual completed the required continuing education units (CEU's) outlined in paragraph (A) of this rule. A "unit" is one clock hour spent in a continuing education activity meeting the requirements established in section 4755.52 of the Revised Code.

   (A) Physical therapists and physical therapist assistants shall participate in continuing education activities that meet the requirements outlined in division (B)

of section 4755.52 of the Revised Code

(1) A physical therapist must complete twenty-four units of continuing education activities within the two year renewal cycle.

(2) A physical therapist assistant must complete twelve units of continuing education activities within the two year renewal cycle.

(B) Accumulated CEU's may not be carried over from one renewal period to another.

(C) Pursuant to sections 4755.52 and 4755.53 of the Revised Code, the physical therapy section may contract with the Ohio physical therapy association (OPTA) to assist the section with the performing of its continuing education duties. The OPTA shall accept, review, approve, or deny proposals for professional workshops, seminars, and/or conferences for continuing education units or for other continuing education activities reported by physical therapists and physical therapist assistants who qualify under section 4755.53 of the Revised Code. The OPTA shall perform any other duties agreed upon by the section and the OPTA necessary for the approval, maintenance, and/or reporting of continuing education activities for physical therapist and physical therapist assistants.

(D) A license shall not be renewed unless the licensee meets the requirements of paragraph (A) of this rule. Completed continuing education activities shall have a current Ohio approval number.

(E) The physical therapy section shall conduct an audit of the continuing education records of a number of the licensees to be determined by the section each renewal year. The section will notify licensees who are selected for the audit to determine compliance with the continuing education requirement specified in this rule.

(1) Licensees chosen for the audit shall submit to the board by the date specified by the board copies of all records and documentation of proof of completion of the continuing education activities used to meet the continuing education requirements of this rule.

(2) Failure to provide proof of the required number of continuing education hours for the specified time period will result in the commencement of disciplinary action.

(3) Failure to respond to or acknowledge receipt of an audit notice will result in the commencement of disciplinary action.

(F) A physical therapist or physical therapist assistant license shall not be renewed unless the licensee certifies that the individual completed the required number of continuing education hour specified in paragraph (A) of this rule.

A licensee who falsifies a renewal application may be disciplined by the physical therapy section for violating section 4755.48 of the Revised Code.

7. On August 1, 2008, Lisa Ratinaud, Enforcement Division Supervisor, contacted **Kawa** via telephone. **Kawa** agreed to surrender his license to practice as a physical therapist assistant in the State of Ohio.

Admissions

1. **Kawa** hereby admits and acknowledges that he is aware he has the right to a formal hearing pursuant to Ohio Revised Code Chapter 119.

2. **Kawa** hereby knowingly waives all rights to a formal hearing in this matter, and agrees that this Agreement shall have the full force and effect of an Order duly entered in accordance with those procedures set forth in Ohio Revised Code Chapter 119 and Chapter 4755 relating to administrative proceedings.

3. **Kawa** admits that the facts as set forth above are true and accurate and expressly waives all rights to challenge said facts, and waives all rights of appeal.

4. **Kawa** admits that the facts set forth above constitute a violation of Ohio law thereby subjecting him to disciplinary action by the Board, pursuant to section 4755.47 of the Ohio Revised Code.

Terms

WHEREFORE, in consideration of the foregoing, and in lieu of any further disciplinary action based on the admissions in the Agreement, **Kawa** and the Board, knowingly and voluntarily agree to the following terms:

1. **Kawa** shall voluntarily surrender and the Board hereby simultaneously revokes his license to practice as a physical therapist assistant in the State of Ohio. **Kawa's** original license certificate and current biennial renewal wallet-sized pocket identification card shall be submitted simultaneously with the signed Consent Agreement to the Enforcement Division of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board at 77 South High Street, 16th Floor, Columbus, OH 43215-6108.

2. **Kawa** hereby releases the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board, its members, employees, agents and officers jointly and severally from any and all liability from the within matter.

3. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code section 149.43.

4. All parties to this Agreement understand that this information will be sent to the Federal Department of Health and Human Services' Healthcare Integrity and Protection Data Bank (HIPDB), pursuant to 42 U.S.C. §1320a-7e(b), 5 U.S.C. §5525a, and 45 C.F.R. pt. 61.

5. By his signature on this Agreement, **Kawa** agrees that in the event the Board, in its discretion, does not approve this Agreement, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. **Kawa** agrees that should the

Board reject this Agreement and if this case proceeds to hearing, he will assert no claim that he was denied a fair hearing or that the Board was prejudiced by its review and discussion of this Agreement and/or the information relating thereto.

6. By adopting and executing this Agreement, the Board hereby acknowledges that this Agreement is a full and final settlement of the within matter and agrees that it will not pursue further action against **Kawa** resulting from the aforementioned conduct.

7. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.

By his signature **Kawa** acknowledges that he has carefully read the above Agreement and enters into it freely and voluntarily with full knowledge of its force and effect, and full knowledge of his rights under Ohio law. By executing this Agreement, **Kawa** recognizes that if, in the discretion of the Board it appears that he has breached any terms or conditions of this Agreement, the Board may initiate formal disciplinary proceedings which may be based solely upon a breach of the Agreement. If the Board finds a breach of this Agreement, it may impose any disciplinary remedy available under Ohio law.

The terms and conditions of this Agreement shall not become effective until approved by the Board and executed pursuant to its approval.

John P. Kawa

9-3-08

Date

Counsel to John P. Kawa
(If Represented)

Date

Jeffrey M. Rosa
Executive Director

9-25-08

Date

Yvonne Tertel
Principal Assistant Attorney General

9/25/2008

Date