



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

December 11, 2018

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Brady Simpkins, P.A.


Gerard A. Cabrera
Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
Division of Legal Affairs
90 Church Street, 4th Floor
New York, New York 10007

RE: In the Matter of Brady Simpkins, P.A.

Dear Parties:

Enclosed please find the Determination and Order (No. 18-272) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine together with the registration certificate. Delivery shall be by either certified mail or in person to:

Office of Professional Medical Conduct
New York State Department of Health
Office of Professional Medical Conduct
Riverview Center
150 Broadway - Suite 355
Albany, New York 12204

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), (McKinney Supp. 2015) and §230-c subdivisions 1 through 5, (McKinney Supp. 2015), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties other than suspension or revocation until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Chief Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Riverview Center
150 Broadway – Suite 510
Albany, New York 12204

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,



James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH: cmg
Enclosure

**STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT**

-----X	:	
IN THE MATTER	:	DETERMINATION
	:	
OF	:	AND
	:	
BRADY SIMPKINS, P.A.	:	ORDER
	:	18-272
-----X		

A hearing was held on October 25, 2018, at the offices of the New York State Department of Health (Department), 90 Church Street, New York, New York. Pursuant to § 230(10)(e) of the Public Health Law (PHL), CALVIN J. SIMONS, M.D., Chairperson, RAMANATHAN RAJU, M.D., and CONSTANCE GARROW DIAMOND, D.A., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. NATALIE J. BORDEAUX, ADMINISTRATIVE LAW JUDGE (ALJ), served as the Administrative Officer.

The Department appeared by Gerard A. Cabrera, Associate Counsel. A Notice of Referral Proceeding and Statement of Charges dated September 11, 2018, were duly served upon Brady Simpkins, P.A. (Respondent).¹ (Exhibit 1.) The Respondent testified by telephone. There were no other witnesses at the hearing. The Hearing Committee received and examined documents from the Department (Exhibits 1-3) and a stenographic reporter prepared a transcript of the proceeding. On November 28, 2018, the Hearing Committee completed its deliberations. After consideration of the entire record, the Hearing Committee sustains the charge that the Respondent committed professional misconduct, in violation of Education Law (Educ. Law) § 6530(9)(a)(ii), and that pursuant to PHL § 230-a, the penalty of revocation of the Respondent's physician assistant license is appropriate.

¹ After unsuccessful attempts at personal service at the Respondent's registered address, the Department sent the Notice of Hearing and Statement of Charges by certified mail to the Respondent's last known address, pursuant to PHL § 230(10)(d)(i). (Exhibit 1.)

BACKGROUND

The Department brought the case pursuant to PHL § 230(10)(p), which provides for a hearing when a licensee is charged solely with a violation of Educ. Law § 6530(9). The Respondent is charged with professional misconduct pursuant to Educ. Law § 6530(9)(a)(ii), by having been convicted of an act constituting a crime under the federal Uniform Code of Military Justice (UCMJ), Articles 120 and 93 (10 U.S.C. § 920 Art. 120 and 10 U.S.C. § 893 Art. 93, respectively.) Under PHL § 230(10), the Department had the burden of proving its case by a preponderance of the evidence.

FINDINGS OF FACT

The following findings and conclusions are the unanimous determinations of the Hearing Committee:

1. On July 24, 2013, the Respondent was authorized to perform medical services as a physician assistant in New York by the Education Department and was issued license number 016765. (Exhibit 2.)
2. On or about April 15, 2016, at a U.S. Department of the Army General Court-Martial, the Respondent was adjudicated guilty of violating federal Uniform Code of Military Justice (UCMJ), Articles 120 and 93, by committing unconsented sexual contact upon, and maltreatment of, another service member. The Respondent was sentenced to confinement of 12 months and dismissal from military service. (Exhibit 3.)

VOTE OF THE HEARING COMMITTEE

The Respondent violated New York Educ. Law § 6530(9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law.

VOTE: Sustained (3-0)

CONCLUSIONS OF LAW

At a U.S. Department of the Army General Court-Martial, a federal court, the Respondent was adjudicated guilty for the crimes of committing unconsented sexual contact upon, and maltreatment of, another service member, in violation of Articles 120 and 93 of the UCMJ. Based on this conviction, the Hearing Committee determined the Respondent violated Educ. Law § 6530(9)(a)(ii), which defines professional misconduct to include:

9. (a) Being convicted of committing an act constituting a crime under... (ii) federal law.

In consideration of the full spectrum of penalties under PHL § 230-a, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties, the Hearing Committee agreed with the Department's recommendation that revocation of the Respondent's physician assistant license was warranted. The Hearing Committee considered the Respondent's conduct which resulted in the General Court-Martial Order, including the Respondent's sexual harassment of another colleague on at least two occasions, kissing the same colleague, and touching his colleague's buttocks with his hands without her consent. The Respondent's adamant denials that he had not engaged in such conduct were not considered by the Hearing Committee because a licensee may not relitigate the fact underlying a conviction charged in a proceeding brought pursuant to PHL § 230(10)(p). Once the Department has proven the conviction, the testimony and evidence is strictly limited to the nature and severity of the penalty to be imposed upon the licensee.

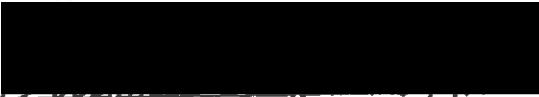
Most concerning to the Hearing Committee was the Respondent's ignorance of the severity of his actions, particularly how his behavior was unacceptable, which suggests his willingness to jeopardize not only the safety of colleagues, but also patients under his care. For these reasons, the Hearing Committee concluded that the appropriate penalty in this case is the revocation of the Respondent's physician assistant license.

ORDER

IT IS HEREBY ORDERED THAT:

1. The specification of professional misconduct, as set forth in the Statement of Charges, is sustained;
2. The Respondent's physician assistant license in the state of New York is REVOKED; and
3. This Order shall be effective upon service on the Respondent in accordance with the Requirements of P.L. § 230(10)(h).

DATED: New York, New York
December 6, 2018


Calvin J. Simons, M.D.
Chairperson

Ramanathan Raju, M.D.
Constance Garrow Diamond, D.A.

To: Brady Simpkins, P.A.



Gerard A. Cabrera
Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
Division of Legal Affairs
90 Church Street, 4th Floor
New York, New York 10007

APPENDIX I

IN THE MATTER

OF

BRADY B. SIMPKINS, P.A.

STATEMENT
OF
CHARGES

Brady B. Simpkins, P.A., the Respondent, was authorized to perform medical services as a physician assistant under the supervision of and within the scope of practice of a supervising physician in New York State, on or about July 24, 2013, and issued License No. 016765 by the New York State Education Department.

FACTUAL ALLEGATIONS

At a U.S. Department of the Army General Court-Martial, convened on or about April 14, 2016, at Headquarters, Fort Drum, New York, Respondent was arraigned and charged with violating the federal Uniform Code of Military Justice ("UCMJ"), Articles 120 and 93, by committing unconsented sexual contact upon, and maltreatment of, another service member (10 U.S.C. §920 Art. 120, and 10 U.S.C. §893 Art. 93). Respondent was adjudged guilty on April 15, 2016, and on or about November 18, 2016, Respondent was sentenced to a 12 month confinement, and to be dismissed from the service.

SPECIFICATION OF CHARGES

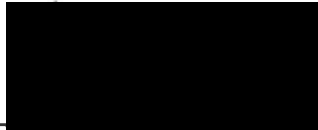
CRIMINAL CONVICTION (Federal)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law as alleged in the facts of the following:

1. Paragraph A.

DATE:

September 11, 2018
New York, New York



HENRY WEINTRAUB
Chief Counsel
Bureau of Professional Medical Conduct