



Department of Health

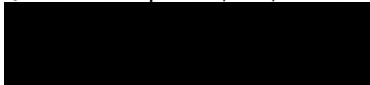
ANDREW M. CUOMO
Governor

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

LISA J. PINO, M.A., J.D.
Executive Deputy Commissioner

July 10, 2020

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Frank Campione, Jr., P.A.


Alton Kenney, Esq.
Starkey, Kelley, Kenneally,
Cunningham & Turnbach
Two Hooper Avenue
Toms River, New Jersey 08753

Marc S. Nash, Esq.
Bureau of Professional Medical Conduct
Corning Tower Building, Room 2512
Empire State Plaza
Albany, New York 12237

RE: In the Matter of Frank Campione, Jr., P.A.

Dear Parties:

Enclosed please find the Determination and Order (No. 20-173) 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.

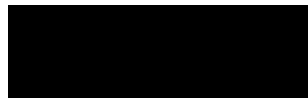
The notice of review served on the Administrative Review Board should be forwarded to:

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

COPY

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: IN THE MATTER : DETERMINATION
: :
: OF : AND
: :
: FRANK CAMPIONE, JR., P.A. : ORDER
: :
: : BPMC#20-173
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A hearing was held by videoconference on June 11, 2020. Pursuant to §230(10)(e) of the Public Health Law (PHL), Deborah Cross, M.D., chairperson, Michael Reichgott, M.D., Ph.D., and Georgia K. Millor, Ph.D., R.N. duly designated members of the State Board for Professional Medical Conduct (BPMC), served as the hearing committee in this matter. Jean T. Carney, Administrative Law Judge (ALJ), served as the Administrative Officer.

The Department appeared by Associate Counsel Marc S. Nash. The Respondent appeared in person, and through his attorney, Alton Kenney, Esq. Jurisdiction over the Respondent was obtained by service of the Notice of Referral Proceeding and Statement of Charges. The Hearing Committee received and examined documents from the Department (Exhibits 1-4), and the Respondent (Exhibits A and B). The Respondent testified in his own behalf; Howard Katz, M.D., and Robert Kelly, M.D. also testified on behalf of the Respondent. A stenographic reporter prepared a transcript of the proceeding. After consideration of the entire record, the Hearing Committee sustains the

charges that the Respondent committed professional misconduct in violation of Education Law §6530(9)(d); and that pursuant to PHL §230-a, the penalties of a permanent limitation on the Respondent's license, and suspension of the Respondent's license until certain conditions are met, are appropriate.

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 Education Law §6530(9).

The Respondent is charged with professional misconduct pursuant to Educ. Law §6530(9)(d), having had his license revoked, or suspended, or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State, namely New York State Education Law (Educ. Law) §6530(3) and/or §6530(32).

Under PHL §230(10), the Department had the burden of proving its case by a preponderance of the evidence. Any licensee found guilty of professional misconduct under the procedures prescribed in PHL § 230 "shall be subject to penalties as prescribed in [PHL § 230-a] except that the charges may be dismissed in the interest of justice."

FINDINGS OF FACT

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

1. The Respondent holds a Physician Assistant's license issued on January 19, 1999; license number 006760. (Department Exhibit 3).

2. On September 11, 2019, the Respondent entered into a Consent Order with the New Jersey State Board of Medical Examiners (NJ Board) wherein the NJ Board found that the Respondent had committed professional misconduct for engaging in repeated acts of negligence; for the indiscriminate prescribing of Controlled Dangerous Substances (CDS); and for failing to maintain medical records. (Department Exhibit 4).

3. The NJ Board retroactively suspended the Respondent's license for three years, effective on March 31, 2016. The Respondent consented to completing a board approved ethics course, a board approved HIPAA course, a board approved recordkeeping/documentation course, and a board approved CDS prescribing course. The Respondent was prohibited from prescribing CDS until he successfully completed the course in prescribing CDS. (Department Exhibit 4).

4. The NJ Board also limited the Respondent's license to meeting and treating patients in a traditional medical setting, such as a hospital, clinic, doctor's office, or urgent care center. Additionally, the Respondent was required to be supervised by a

physician approved by the NJ Board. These limitations could be lifted upon application by the Respondent after one year. (Department Exhibit 4).

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

The Hearing Committee concludes that the evidence supports sustaining the charge of having committed misconduct as defined in Educ. Law §6530(9)(d).

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATIONS

The Department met its burden of proving by a preponderance of the evidence that the Respondent committed professional misconduct as alleged in the Statement of Charges. The evidence shows that the Respondent was subject to disciplinary action by the NJ Board, which found that the Respondent had engaged in multiple acts of negligence, and failed to maintain medical records. These findings would constitute professional misconduct pursuant to New York Education Law §6530(3), practicing the profession with negligence on more than one occasion; and New York Education Law §6530(32), failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient provided.

In considering the full spectrum of penalties available by statute, including revocation, suspension and/or probation, censure and reprimand, limitation of the license, and the imposition of monetary penalties; the Hearing Committee notes that the

Respondent has complied with the terms and conditions of the 2019 Consent Order, and an interim Consent Order that was put into effect in March 2016. The Hearing Committee determines that the Respondent's license to practice as a physician assistant in New York State should be suspended until such time as he provides proof to the satisfaction of the Board of Medical Conduct that he has completed courses in medical documentation; and that such suspension be stayed unless and until the Respondent returns to practice in New York. If the Respondent returns to practice in New York State, a permanent limitation shall be placed on his license, requiring that he practice under the supervision of a physician in a traditional medical setting, such as a hospital, clinic, doctor's office, or urgent care center.

ORDER

IT IS HEREBY ORDERED THAT:


1. The specifications of professional misconduct as set forth in the Statement of Charges are sustained;
2. The Respondent's license to practice as a physician assistant in New York State is wholly suspended, said suspension shall be stayed unless and until the Respondent returns to practice in New York, at which time the Respondent will provide satisfactory proof to the Board of Medical Conduct of successful completion of a course on documentation; and

3. Upon his return to practice in New York, the Respondent's license shall be limited to practice in a traditional medical setting, such as a hospital, clinic, doctor's office, or urgent care center; and under the supervision of a physician; and


4. This Order shall be effective upon service on the Respondent in accordance with the Requirements of PHL §230(10)(h).

DATED: Albany, New York

July 2, 2020


Deborah Cross, M.D., Chairperson
Michael Reichgott, M.D., Ph.D.
Georgia K. Millor, Ph.D., R.N.

To: Frank Campione, Jr., P.A.


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Starkey, Kelley, Kenneally, Cunningham & Turnbach
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Toms River, New Jersey 08753
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Albany, New York 12237
Email: marc.nash@health.ny.gov

APPENDIX A

IN THE MATTER

OF

FRANK CAMPIONE, JR., P.A.

STATEMENT

OF

CHARGES

FRANK CAMPIONE, JR., P.A., the Respondent, was authorized to practice as a physician assistant in New York State on or about January 19, 1999, by the issuance of license number 006760 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about September 24, 2019, the New Jersey Board of Medical Examiners, Physician Assistant Advisory Committee (hereinafter, "New Jersey Board") filed a Final Consent Order which suspended Respondent's registration for a period of three years, *nunc pro tunc* to the effective date of March 31, 2016, directed Respondent to successfully complete courses in ethics, HIPAA, recordkeeping, and Controlled Dangerous Substances (hereinafter "CDS") prescribing within six months, and limited Respondent to only meet with and treat patients in a traditional medical setting. The disciplinary action was based findings that cause for disciplinary action exists for indiscriminate prescribing of CDS, repeated acts of negligence, and failing to maintain medical records.

B. The Conduct resulting in the New Jersey Board's disciplinary action against Respondent would constitute misconduct under the laws of New York State pursuant to the following Section of New York State Law:

1. New York Education Law § 6530(3) (Practicing the profession with negligence on more than one occasion); and/or


2. New York Education Law § 6530(32) (Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, provided).

SPECIFICATION OF CHARGES
HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law § 6530(3) and (32) as alleged in the facts of the following:

1. The facts in Paragraphs A, B, and B.1, and/or A, B, and B.2.

DATE: April 14, 2020
Albany, New York


TIMOTHY J. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct