



STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

March 14, 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

David W. Smith, Esq.
NYS Department of Health
5 Penn Plaza – Sixth Floor
New York, New York 10001

Angelo Gelpi, R.P.A.
489 East 183rd Street #46
Bronx, New York 10458

RE: In the Matter of Angelo Gelpi, R.P.A.

Dear Parties:

Enclosed please find the Determination and Order (No.00-77) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

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), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "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.

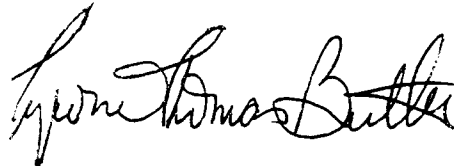
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

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,

A handwritten signature in black ink, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial 'T'.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

IN THE MATTER

OF

ANGELO GELPI, R.P.A.

**DECISION
AND
ORDER
OF THE
HEARING
COMMITTEE**

ORDER NO.

BPMC 00 -77

This matter was commenced by a Notice of Hearing and Statement of Charges, both dated September, 24 1999 which were served upon **ANGELO GELPI M.D.**, (hereinafter referred to as "Respondent").

GEORGE C. SIMMONS, Ed.D., Chairperson, FILIPPO DICARMINE, M.D., JAMES EISENKRAFT, M.D. duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law.

JONATHAN M. BRANDES, ESQ., Administrative Law Judge, served as the Administrative Officer.

A hearing was held on December 14, 1999 at 5 Penn Plaza, New York, New York. The State Board For Professional Medical Conduct (hereinafter referred to as "Petitioner" or "the Board") appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **DAVID W. SMITH, ESQ.**, Associate Counsel, Bureau of Professional Medical Conduct. Respondent appeared in person, pro se. Respondent made a sworn statement on the record. Evidence was received. A transcript of these proceedings was made.

After consideration of the entire record, the Hearing Committee issues this Decision and Order.

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). This statute provides for an expedited hearing where a licensee is charged solely with a violation of Section 6530 (9) of the Education Law. In such cases, a licensee is charged with misconduct based upon prior professional disciplinary action or criminal conviction. The scope of this expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed by this state upon the licensee based solely upon the record of the previous conviction or discipline.

In the instant case, Respondent is charged with professional misconduct pursuant to three sections of the New York State Education Law, Section 6530:

1. Section 6530 (3); Practicing the profession with negligence on more than one occasion;
2. Section 6530 (32); Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient
3. Section 6530 (35); Ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient.

These charges were established at proceedings before the New York State Department of Social Services and the New York State Department of Health and arise from the treatment of some 25 Medicaid patients.

The allegations in this proceeding and the underlying events are more particularly set forth in the Notice of Referral Proceeding and Statement of Charges, a copy of which is attached to this Decision and Order as Appendix One.

FINDINGS OF FACT

The Committee adopts the factual statements set forth on pages one through three of the Statement of Charges (Appendix One) as its findings of fact and incorporates them herein.

CONCLUSIONS WITH REGARD TO FACTUAL ALLEGATIONS SPECIFICATIONS AND PENALTY

Petitioner has proven by a preponderance of the evidence that Respondent was found guilty of providing "substandard and poor quality care." The decisions included in the underlying facts of this case established a pattern of negligence, excessive testing and substandard patient records. Therefore, Petitioner has proven, by a preponderance of the evidence that the factual assertions and specifications are true

The Committee now turns its attention to what penalty to impose. In answering this question, the Committee takes notice that Respondent was found guilty of multiple instances of substandard patient care. Some of the inappropriate care was serious and even life threatening. Yet, upon questioning by the Committee, Respondent presented an air of arrogance. He showed no remorse. He showed no effort to improve his skills. Indeed, he seemed anxious to resume the very same pattern of unacceptable practice. Where a practitioner has been repeatedly convicted of care which does not meet minimum standards of practice but refuses to acknowledge any shortcomings, there is no possibility of rehabilitation. Such a practitioner is a danger to the public.

Based upon all the above, it is the unanimous conclusion of this panel that this physician's Assistant such a significant level of threat to the people of this state that it cannot be tolerated. The only appropriate sanction is revocation.

ORDER

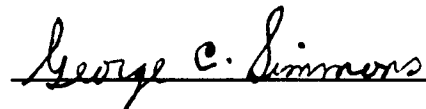
WHEREFORE, Based upon the preceding facts and conclusions,

It is hereby ORDERED that:

1. The Factual allegations in the Statement of Charges (Appendix One) are SUSTAINED;
Furthermore, it is hereby ORDERED that;
2. The Specifications of Misconduct contained within the Statement of Charges (Appendix One) are SUSTAINED;
Furthermore, it is hereby ORDERED that;
3. The license of Respondent to practice as a Registered Physician's Assistant in the state of New York is hereby REVOKED;
Furthermore, it is hereby ORDERED that;
4. This order shall take effect UPON RECEIPT by Respondent or his attorney or SEVEN (7) DAYS after mailing of this order by Certified Mail to Respondent or his attorney.

Dated:
Rochester, New York

03-01- _____ 2000



**GEORGE C. SIMMONS, Ed.D.,
Chairperson
FILIPPO DICARMINE, M.D.
JAMES EISENKRAFT, M.D.**

TO:

DAVID W. SMITH ESQ.

Associate Counsel

Bureau of Professional Medical Conduct

5 Penn Plaza

New York NY 10001

ANGELO GELPI, R.P.A.

489 East 183rd Street, # 46

Bronx, NY 10458

APPENDIX ONE

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

IN THE MATTER
OF
ANGELO GELPI, R.P.A.

NOTICE OF
REFERRAL
PROCEEDING

TO: ANGELO GELPI, R.P.A.
489 East 183rd Street
Bronx, New York 10458

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §§230(10)(p) (McKinney Supp. 1999) and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1999). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on December 14, 1999, at 10:00 a.m., at the offices of the New York State Department of Health, 5 Penn Plaza, Sixth Floor, New York, New York 10001.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any

witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. You may file a written brief and affidavits with the Committee. Six copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 (McKinney Supp. 1999) and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be

photocopied.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: New York, New York
September, 27 1999



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

IN THE MATTER
OF
ANGELO GELPI, R.P.A.

STATEMENT
OF
CHARGES

ANGELO GELPI, R.P.A., Respondent, was authorized to practice as a physician's assistant in New York State on or about November 21, 1974 by the issuance of certificate number 000233 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. In or about November, 1994 the New York State Department of Social Services (DSS) suspended Respondent from the Medicaid Program for a period of five (5) years based substantially upon a review of twenty-five (25) patient charts, including eleven (11) children and two (2) diabetics. DSS found that:

In general there is not a single case in which the chief complaint is adequately elaborated or explored. No ROS [review of systems], PM Hx. [past medical history], Fam. Hx. [family history], complete reproductive history is recorded. Physical exams often fail to contain critical information (e.g. presence or absence of pharyngeal exudate or cervical adenopathy).

No follow-up appointments are documented.

In a number of children - infants there are a lack of estimations of growth and development, and immunization status. No PPDs.

Several patients have very poor if not dangerous care of significant diabetes mellitus or associated conditions.

There is excessive use of anti-biotics for URI's and the symptoms of frequency without adequate evaluation. In several instances there are no follow-up of positive abnormal findings at subsequent visits.

It appears that the Hx./Px. are done by PA's and in several instances there is lack of M.D. countersignature signifying review/supervision.

Overall quality of care especially for children and diabetics are poor. (Decision After Hearing #92 C01-7526, p. 3)

In November, 1998, in an adjudicatory proceeding before the New York State Department of Health (DOH), after hearing at which Respondent was represented by Counsel, DOH affirmed the suspension after finding pervasive deficiencies and that Respondent was guilty of, among other things, violating the following DSS regulations:

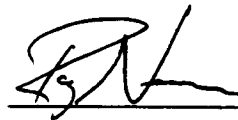
1. Respondent provided "substandard and poor quality care" thus failing to meet recognized medical standards for providing care (18 NYCRR §515.2(b)(12)).
2. Respondent ordered medical services substantially in excess of the patient's needs (§515.2(b)(11)).
3. Respondent failed to keep accurate and complete medical records including the documentation of justification for prescribed medications in violation not only of DSS regulations (§512.2(b)(6)), but also Board of Regents regulation (8 NYCRR 29.2(a)(3)).

SPECIFICATIONS
HAVING BEEN FOUND GUILTY OF VIOLATIONS
CONSTITUTING PROFESSIONAL MISCONDUCT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3)(McKinney Supp. 1999) by having been found guilty in an adjudicatory proceeding of violating a State regulation pursuant to a final decision where such violation would constitute professional misconduct pursuant to §6530 of the Education law (namely: §6530(3) - practicing with negligence on more than one occasion; §6530(35) - ordering of excessive tests or treatment; §6530(32) - failing to maintain a proper record for each patient) as alleged in the facts of the following:

1. Paragraphs A and A1-3.

DATED: September 2nd, 1999
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

DAVID W. SMITH
Associate Counsel
NYS Department of Health
Division of Legal Affairs
5 Penn Plaza, Suite 601
New York, New York 10001
(212) 613-2615