



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., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

May 10, 2004

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Michele Marie Campbell, P.A.
4 Fielding Place
Edison, New Jersey 08820

Robert Bogan, Esq.
NYS Department of Health
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180

PUBLIC

RE: In the Matter of Michele Marie Campbell, P.A.

Dear Parties:

Enclosed please find the Determination and Order (No. 04-098) 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.

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.

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.

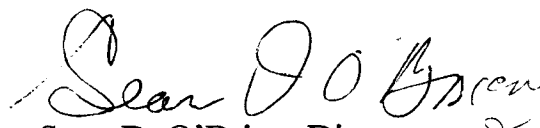
The notice of review served on the Administrative Review Board should be forwarded to:

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,


Sean D. O'Brien, Director
Bureau of Adjudication

SDO:djh
Enclosure

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

COPY

IN THE MATTER

OF

Michele Marie Campbell, P.A.

DETERMINATION

AND

ORDER

BPMC NO. 04-098

A Notice of Referral Proceeding and Statement of Charges, both dated March 16, 2004, were served upon the Respondent, **MICHELE MARIE CAMPBELL, P.A.** **JOSEPH A. MESSINA, M.D.**, Chairperson, **JAMES T. ADAMS, M.D.**, and **MR. CHARLES AHLERS**, 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. **STEPHEN L. FRY, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on April 22, 2004, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **DONALD P. BERENS, JR., ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.** and **PAUL ROBERT MAHER, ESQ.**, of Counsel. The Respondent appeared in person.

Evidence was received and transcripts of these proceedings were made.

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

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing where a licensee is charged solely with a violation of Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication regarding conduct that would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(a)(iii), based upon her conviction of a crime in another jurisdiction. A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner:

None

For the Respondent:

Michele Marie Campbell, P.A.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex.". These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous.

1. **MICHELE MARIE CAMPBELL, P.A.**, the Respondent, was authorized to practice as a physician's assistant in New York State on January 26, 2001, by the issuance of license number 008004 by the New York State Education Department (Ex. 4).
2. On October 14, 2003, Respondent was convicted by the Metuchen Borough Municipal Court, New Jersey, pursuant to a guilty plea, of the offense of driving while intoxicated (DWI). She was sentenced to payment of fines and costs totaling \$605, a 6-month driver's license revocation and 12 hours of an Intoxicated Driver Resource Center program ("IDRC", erroneously referred to in the Statement of Charges as "IRDC" program) (Ex.'s 5, B).

HEARING COMMITTEE CONCLUSIONS

The hearing Committee concludes that Respondent's conviction of driving while intoxicated in the State of New Jersey constitutes misconduct under the laws of New York State, pursuant to New York Education Law §6530(9)(a)(iii) [erroneously referred to in the Statement of Charges as "§6530(9)(iii)"], in that the conduct would have constituted a crime in New York, had it been committed here, under New York Vehicle and Traffic Law §1193.

VOTE OF THE HEARING COMMITTEE

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(iii) by having been convicted of a crime in another jurisdiction, where the conduct would also have constituted a crime had it been committed in New York State.

VOTE: SUSTAINED (3-0)

HEARING COMMITTEE DETERMINATION

The record in this case establishes, by documentary evidence and Respondent's own admission, that she pled guilty to DWI in the state of New Jersey. Since driving while intoxicated is also a crime in New York State, the charge of misconduct in New York is substantiated. Accordingly, the only issue remaining to be addressed pursuant to Public Health Law §230(10)(p) is the penalty to be imposed in this state.

The Hearing Committee was guided in part in reaching its penalty determination by evidence that this was the only alcohol related driving infraction on Respondent's record (Ex. A, driving abstract) and by the report of the assessment by the counselor she saw as a result of the sentence requirement that she complete a 12-hour IDRC program. This report (Ex. B) read, in pertinent part, as follows:

Please be advised that Michelle (sic) completed all treatment recommendations of the First Step Counseling Services as a result of her DUI (sic) charge. Michelle did not fit the criteria for the 16 week IDRC psycho (sic) educational program. Instead, she was recommended to attend two individual counseling sessions, in addition to her evaluation, to completely assess her lifestyle, behavior and personal insight. She was also required to complete a total of three urine screens.

Michelle was fully cooperative with these recommendations. She used the individual sessions well. Michelle related personal integrity, strength of character, and insight into her incident. Michelle has been proactive in the tasks she needs to complete. Since the incident, she has initiated appropriate communication at her workplace and in her personal life to make this experience one she learns from and has taken responsibility for her actions.

The urine screens Michelle completed indicate an absence of any mood altering substances in her body.

The Hearing Committee was impressed by the manner in which Respondent took responsibility for her actions, as well as her motivation to avoid a repetition of the behavior

that led to her conviction. In addition, Respondent works in a rehabilitation facility where her performance is monitored on an ongoing basis. The Hearing Committee feels that the probation and fine set forth in the Order, below, are sufficient to protect the residents of New York State.

ORDER

IT IS HEREBY ORDERED THAT:

1). A **FINE** in the amount of **FIVE HUNDRED DOLLARS (\$500.00)** is assessed against the Respondent. Payment of the fine shall be due within 60 days of the effective date of this order.

The Respondent shall make payment to the Bureau of Accounts Management, New York State Department of Health, Erastus Corning Tower Building, Room 1258, Empire State Plaza, Albany, New York 12237.

Any fine not paid by the prescribed date shall be subject to all provisions of law relating to debt collection by the State of New York. This includes, but is not limited to, the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection, and non-renewal of permits or licenses (Tax Law §171(27), State Finance Law §18; CPLR §5001; Executive Law §32).

2). OPMC will monitor Respondent's completion of a one-year probationary period, to commence upon the effective date of this order.

4). The terms of Respondent's probation are as follows:


- A. Respondent shall conduct herself in all ways in a manner befitting her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by her profession. Respondent acknowledges that if she commits professional misconduct as enumerated in New York State Education Law §'6530 or §6531, those acts shall be deemed to be a violation of probation and that an action may be taken against Respondent's license pursuant to New York State Public Health Law §230(19);
- B. Respondent shall submit written descriptive notification to OPMC at the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299, of any changes in employment and

practice, professional and residential addresses or telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility during the probationary period, within 30 days of each event;

- C. Respondent shall maintain legible and complete medical records that accurately reflect the evaluation and treatment of patients.
- D. During the period of probation set forth above, Respondent shall refrain from driving after consuming alcohol and from being under the influence of alcohol while at work.
- E. Respondent shall notify in writing any medical facility or institution with whom she is presently affiliated or at which she practices, and any facility or institution with whom she becomes affiliated or at which she practices during the effective period of this probation, of the contents of this order and terms of probation, and provide a copy of any such notification to OPMC.
- F. If there is full compliance with every term and condition set forth herein, Respondent may continue to be authorized to practice as a physician's assistant in New York State; provided, however, that on receipt of evidence of non-compliance or any other violation of the term(s) and condition(s) of probation, a violation of probation proceeding and/or such other proceeding as may be warranted, may be initiated against Respondent pursuant to New York Public Health Law Sections 230 or any other applicable laws.
- G. OPMC may, at its discretion, take any and all steps necessary to monitor Respondent's status, condition or professional performance. Respondent must cooperate in providing releases permitting unrestricted access to records and other information, to the extent permitted by law, from any employer, medical facility or institution with which she is affiliated or at which she practices; any treatment facility, treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of Respondent, or maintained by a rehabilitation program for impaired physicians' assistants. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of her compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.

This **ORDER** shall be effective upon service on the Respondent pursuant to Public Health Law section 230(10)(h).

DATED: Rochester, New York
5/5, 2004



JOSEPH A. MESSINA, M.D.,
Chairperson

JAMES T. ADAMS, M.D.
MR. CHARLES AHLERS

APPENDIX 1

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

IN THE MATTER

OF

MICHELE MARIE CAMPBELL, P.A.
CO-03-12-5924-A

NOTICE OF

REFERRAL

PROCEEDING

TO: MICHELE MARIE CAMPBELL, P.A.
 4 Fielding Place
 Edison, NJ 08820

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law § 230(10)(p) and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 22nd day of April 2004, at 10:00 in the forenoon of that day at the Hedley Park Place, 433 River Street, 4th Floor, Board Room, Troy, New York 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the attached Statement of Charges. 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 that 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, 5th Floor, 433 River Street, Troy, New York, ATTENTION: HON. SEAN O' BRIEN, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before April 12, 2004.

Pursuant to the provisions of N.Y. Public Health Law §230(10)(p), you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten days prior to the hearing. Any Charge of Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such an 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 brief and affidavits with the Committee. Six copies of all such papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before April 12, 2004, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to Section 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.

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: Albany, New York

March 16, 2004



PETER D. VAN BUREN

Deputy Counsel

Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Robert Bogan
Associate Counsel
New York State Department of Health
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180
(518) 402-0828

IN THE MATTER
OF
MICHELE MARIE CAMPBELL, P.A.,
CO-03-12-5924-A

STATEMENT
OF
CHARGES

MICHELE MARIE CAMPBELL, P.A., the Respondent, was authorized to practice medicine as a physician assistant in New York state on January 26, 2001, by the issuance of license number 008004 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about October 14, 2003, in the Metuchen Borough Municipal Court, New Jersey, Respondent was found guilty, based on a plea of guilty, of Driving While Intoxicated and sentenced to a six (6) month driver's license revocation, a \$575.00 fine, \$30.00 court costs, and twelve (12) hours of IRDC.

SPECIFICATION

Respondent violated New York Education Law §6530(9)(iii) by having been convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.

DATED: *March 16*, 2004
Albany, New York


PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical Conduct