



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

Public

January 30, 2006

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Rony Chatelain, P.A.
135 Old East Neck Road
Melville, New York 11747

Jacques Nazaire, Esq.
Audrea Finley, Esq.
60 East 42nd Street
New York, New York 10165

Robert Bogan, Esq.
NYS Department of Health
Bureau of Professional Medical Conduct
Hedley Building, Suite 303
433 River Street
Troy, New York 12180-2299

RE: In the Matter of Rony Chatelain, P.A.

Dear Parties:

Enclosed please find the Determination and Order (No. 06-013) 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 Respondent 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.

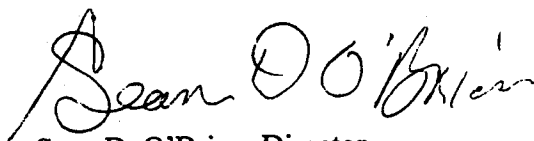
The notice of review served on the Administrative Review Board should be forwarded to:

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,

A handwritten signature in cursive script that reads "Sean D. O'Brien". The signature is written in dark ink and is positioned above the printed name and title.

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

DETERMINATION

AND

ORDER

OPMC NO. 06-13

IN THE MATTER
OF
RONY CHATELAIN, P.A.

A Notice of "Commissioner's Summary Order and Notice of Referral Proceeding" and a Statement of Charges, both dated December 21, 2005, were served upon the Respondent, **RONY CHATELAIN, P.A.** **SCOTT GROUDINE, M.D.**, Chairperson, **ALEXANDER M. YVARS, M.D.** and **WILLIAM McCAFFERTY, ESQ.**, 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 January 19, 2006, 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.**, of Counsel. The Respondent appeared in person and by **JACQUES NAZAIRE, ESQ** and **AUDREA FINLAY, ESQ.**

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)(i), based upon his convictions of crimes under New York State law. Copies of the Summary Order and the Statement of Charges are attached to this Determination and Order as Appendix 1.

This case was also brought pursuant to Public Health Law §230(12)(b), which, among other things, authorizes the Commissioner to issue a summary suspension prohibiting a licensee from practicing pending a hearing when the licensee has been convicted of a felony under New York State law, pending a hearing on the underlying misconduct charges.

WITNESSES

For the Petitioner:

None

For the Respondent:

Rony Chatelain, P.A.
Christopher Durant, M.D. (by telephone)
Paul G. Kleinman, M.D. (by telephone)

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.", or transcript pages, denoted by the prefix "Tr.". 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. **RONY CHATELAIN, P.A.**, the Respondent, was authorized to practice as a physician's assistant in New York State on November 5, 1982, by the issuance of license number 002079 by the New York State Education Department (Ex. 4).
2. On September 15, 2005, Respondent was convicted in the County Court, Nassau County New York, by a plea of guilty (Ex. 5), of the crimes of "driving while intoxicated; per se" (operation of a motor vehicle with .08 percent blood alcohol; Vehicle and Traffic Law §1192(2)) and "aggravated unlicensed operation of a motor vehicle in the second degree" (Vehicle and Traffic Law §511(2)). The DWI conviction was a felony because Respondent had been convicted under Vehicle and Traffic Law §1192(2) within the previous three years (a conviction in 2003; see Ex. 7; also Vehicle and Traffic Law §1193(1)(C)). The aggravated unlicensed operation conviction was predicated upon the fact that Respondent was driving while his driver's license was revoked (as a result of the 2003 conviction) and because he had been driving under the influence of alcohol. As a result of these convictions, Respondent was sentenced to 4 weeks of intermittent

imprisonment, an additional license revocation of one year, 5 years probation, and total fines, fees and surcharges of \$1,795.00. (Ex. 5)

3. On October 27, 2005, Respondent was convicted, in the New York State Supreme Court, Suffolk County, of felony operation of a motor vehicle while under the influence of alcohol. He was sentenced to probation of 5 years with alcohol/narcotics conditions, a fine and surcharge totaling \$1,295.00, and suspension of his license for one year. (Ex. 6)

HEARING COMMITTEE CONCLUSIONS

The hearing Committee concludes that the conduct resulting in Respondent's convictions of crimes under the laws of New York State constitute misconduct pursuant to New York Education Law §6530(9)(a)(i). The Hearing Committee concludes that the appropriate sanction in this case is a 3-year suspension of Respondent's New York license, with all but the first six months stayed. At the end of the active portion of the suspension, Respondent will be placed on probation for a period of five years.

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(i) by having been convicted of a crime under New York State Law.

VOTE: SUSTAINED (3-0)

HEARING COMMITTEE DETERMINATION

The record in this case establishes that Respondent was convicted, in the space of less than 1 ½ months, of two felonies and one misdemeanor, all related to driving under the influence of alcohol. The two felonies reached that level of seriousness because Respondent had been previously convicted of an alcohol related driving offense within the prior three years. The convictions constitute misconduct, as set forth above, so the only issue to be reached in this decision is the penalty to be imposed for this misconduct.

The Hearing Committee is of the opinion, first of all, that Respondent has a serious alcohol problem, and that this problem was directly related to the criminal convictions at issue. In addition to the convictions referred to above, Respondent admitted at the hearing that he had been convicted of driving while under the influence of alcohol in 1997. (Tr. 53)

The Hearing Committee believes, in general, that licensees with alcohol problems, in cases where there has been no actual or threat of patient harm, should receive appropriate evaluation, treatment and monitoring for their conditions, rather than more severe sanctions. However, in this instance, there are some factors that indicate that a more severe penalty is called for.

For one thing, Respondent admitted at the hearing that he told his probation officer that when he was arrested by the police at 12:10 P.M. on July 16, 2005 (the arrest that led to the conviction discussed above in fact finding #2), he was on his way to work, that he had been drinking until 3:30 or 4:00 A.M., that he had had four martinis, and that he had a shot of vodka before he left home (Tr. 60-61). Although there is no concrete evidence of patient harm, there is little doubt that Respondent would have been impaired had he made it to work on this occasion, and it raises significant questions, coupled with the number and

nature of Respondent's arrests, as to whether there might have been other occasions when he attempted to or did work while impaired.

Although Respondent testified at first that he had practiced as a PA until 2003 (Tr. 17), he admitted on cross examination that he had told his probation officer, who was preparing a probation report after the Conviction referred to in fact finding #3, above, that he had been working from 1995 through October, 2005 as a PA for Village Diagnostic Medical, P.C. at a salary of \$90,000.00 a year, and he produced a pay stub at that time. (Tr. 56-57) This raises the possibility that Respondent was on his way to work as a PA when he was arrested in July, 2005, which the Hearing Committee finds troubling. Respondent's vague, elusive and difficult to follow testimonial attempt to reconcile these conflicting statements (Tr. 57-60; 62-64) did nothing to eliminate the significant questions about his credibility that the statements, and other pieces of his testimony, engendered.

Respondent also failed to convince the Hearing Committee that his current circumstances call for mitigation of the penalty to be imposed herein. For one thing, although Respondent presented testimony and documentation related to the quality of his practice up through approximately the year 2000, he submitted nothing more recent than that, and his explanation for that failure, that he did not have enough time to obtain the documentation or testimony (Tr. 66-67), was not believable.

Furthermore, although Respondent produced a letter from ADI & Associates Counseling and Consultation Services (Ex. B) attesting to his successful treatment in an alcohol abuse program from August, 2005 through December, 2005, the letter offers no opinions about Respondent's future prognosis, and it appears from Respondent's testimony that the breathalyzer tests administered as part of this program were not random. (Tr. 48-9)

Since that time, Respondent has been seen by New Pathway Counseling Services¹. However, the letter he submitted from that agency, (Ex. C), although reporting his thus far favorable participation in the program, fails to indicate what its sources of information have been (a concern the Hearing Committee has because of Respondent's apparent general unreliability as a reporter of information) and offers no prognosis as to his ability to practice safely in the future.

In addition, Respondent has not been participating in AA or any similar program, and his testimony that this had never been recommended for him (Tr. 65) is belied by a specific statement to the contrary in the ADI letter. Even if participation in such a program had not been specifically recommended for him, the Hearing Committee is of the belief that a physician undertaking a serious effort to deal with an acknowledged alcohol problem would seek out such programs without being required to do so. The Hearing Committee is concerned that Respondent does not recognize or admit the seriousness of his alcohol problem, and nothing in his testimony served to dispel these concerns.

The primary evidence Respondent offered in mitigation of a significant sanction in this case was his testimony that he has children at home, and needs to be able to work as a PA to support them. Although the Hearing Committee does not necessarily believe that Respondent's circumstances are as dire as he portrays them, this question need not be addressed further because it is largely irrelevant to the question of the severity of the penalty in this case. The penalty fashioned by the Hearing Committee, and set forth in more detail below, is designed not only to punish Respondent for his misconduct, but to protect residents of New York State from the dangers his practice might present were he

¹ Respondent had to switch programs pursuant to the terms of his probation because ADI was not an OASAS licensed treatment center.

not carefully monitored. Respondent's financial circumstances are not pertinent in this context.

The Hearing Committee concludes that the appropriate sanction in this case is a 3-year suspension of Respondent's New York license², with all but the first six months stayed. At the end of the active portion of the suspension, Respondent will be placed on probation for a period of five years, under terms set forth with specificity below.

² Retroactive to the effective date of the Commissioner's Order.

ORDER

IT IS HEREBY ORDERED THAT:

1. The New York medical license of **RONY CHATELAIN, P.A.** is hereby **SUSPENDED** for a period of **THREE YEARS**, retroactive to the date of the Commissioner's Order. All but six months of the suspension is stayed, and, in its place, Respondent is placed on **PROBATION** for a period of **FIVE YEARS** under the terms set forth below.
2. The terms of Respondent's probation are as follows:
 - A. Respondent shall remain drug/alcohol free.
 - B. Respondent shall remain active in self-help groups such as, but not limited to, Narcotics Anonymous, Alcoholics Anonymous and Caduceus.
 - C. Respondent shall notify all treating physicians of his/her history of alcohol/chemical dependency. Respondent shall advise OPMC of any controlled or mood-altering substance given or prescribed by treating physicians.
 - D. Respondent shall practice only when monitored by qualified health care professionals ("sobriety monitor", "practice supervisor" and "therapist") proposed by Respondent and approved, in writing, by the Director of OPMC. Monitors shall not be family members or personal friends, or be in professional relationships that would pose a conflict with monitoring responsibilities.
 - E. Respondent shall ensure that the monitors are familiar with Respondent's alcohol dependency and with the terms of this Order. Respondent shall cause the monitors to report any deviation from compliance with the terms of this Order to OPMC. Respondent shall cause the monitors to submit required reports on a timely basis.

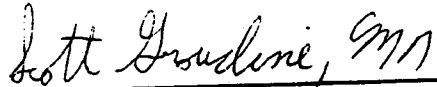
- F. Respondent shall submit, at the request of a monitor, to random, unannounced observed blood, breath and/or urine screens for the presence of drugs/alcohol. This monitoring will be on a random, seven-days a week, twenty-four hours a day basis. Respondent shall report for a drug screen within four (4) hours of being contacted by the monitor. Respondent shall cause the monitor to report to OPMC within 24 hours if a test is refused or delayed by Respondent or a test is positive for any unauthorized substance.
- G. Respondent shall meet with a sobriety monitor on a regular basis who will submit quarterly reports to OPMC certifying Respondent's sobriety. These reports are to include a) forensically valid results of all drug/alcohol monitoring tests to be performed at a frequency of no less than six (6) per month for the first 12 months of the period of probation, then at a frequency to be proposed by the sobriety monitor and approved by OPMC and b) an assessment of self-help group attendance (e.g., AA/NA/Caduceus, etc.), 12 step progress, etc.
- H. Respondent shall avoid all substances which may cause positive urines such as herbal tea, poppy seeds, mouthwash, or cough medication. Any positive result will be considered a violation of this Order.
- I. Respondent shall practice medicine only when supervised in his/her medical practice. The practice supervisor shall be on-site at all locations, unless determined otherwise by the Director of OPMC. Respondent shall not practice medicine until a practice supervisor has been approved. Respondent shall ensure that the practice supervisor is in a position to regularly observe and assess Respondent's medical practice. Respondent shall cause the practice supervisor to

report within 24 hours any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC.

- J. Respondent shall cause the practice supervisor to review Respondent's practice regarding the prescribing, administering, dispensing, inventorying, and disposal of controlled substances.
- K. Respondent shall cause the practice supervisor to submit quarterly reports to OPMC regarding the quality of Respondent's medical practice, including the evaluation and treatment of patients, physical and mental condition, time and attendance or any unexplained absences from work, prescribing practices, and compliance or failure to comply with any term of probation.
- L. Respondent shall engage and continue in therapy with a therapist in accordance with a treatment plan approved by the Director, OPMC.
- M. Respondent shall cause the therapist to submit a proposed treatment plan and quarterly reports to OPMC certifying whether Respondent is in compliance with the treatment plan. Respondent shall cause the therapist to report to OPMC within 24 hours if Respondent leaves treatment against medical advice, or displays any symptoms of a suspected or actual relapse.
- N. Respondent shall comply with any request from OPMC to obtain an independent psychiatric/chemical dependency evaluation by a health care professional proposed by the Respondent and approved, in writing, by the Director of OPMC. Respondent shall bear all expenses of such evaluation.

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

DATED: Latham, New York
Jan 27, 2006



SCOTT GROUDINE, M.D.
Chairperson

ALEXANDER M. YVARS, M.D.
WILLIAM McCAFFERTY, ESQ.

APPENDIX 1

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

EXHIBIT

IN THE MATTER
OF
RONY CHATELAIN, P.A.
CO-05-11-5935-A

COMMISSIONER'S
SUMMARY
ORDER AND
NOTICE OF
REFERRAL
PROCEEDING

TO: RONY CHATELAIN, P.A.
135 Old East Neck Road
Melville, NY 11747

The undersigned, Dennis P. Whalen, Executive Deputy Commissioner of the New York State Department of Health, after an investigation, upon the recommendation of a committee on professional medical conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached, hereto, and made a part hereof, has determined that **RONY CHATELAIN, P.A.**, Respondent, licensed to practice medicine as a Physician Assistant in New York state on November 5, 1982, by license number 002079, has been found guilty, based on a plea of guilty, of committing an act constituting a felony under state law, in the County Court of the State of New York, Nassau County, Mineola, New York.

It is therefore,

ORDERED, pursuant to New York Public Health Law Section 230(12)(b), that effective immediately, **RONY CHATELAIN, P.A.**, Respondent, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is dependent on a valid New York State license to practice medicine. This order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to New York Public Health Law Section 230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of New York Public Health Law Section 230, and New York State Administrative Procedure Act Sections 301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board of Professional Medical Conduct, on the 19th day of January, 2006 at 10:00 am in the forenoon at Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, that is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents. 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. Respondent has the right cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. 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 hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the Administrative Law Judge's Office, Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180 (518-402-0751), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event that any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

**THESE PROCEEDINGS MAY RESULT IN A
DETERMINATION THAT YOUR LICENSE TO
PRACTICE MEDICINE IN NEW YORK STATE BE
REVOKED OR SUSPENDED, AND/OR THAT
YOU MAY BE FINED OR SUBJECT TO OTHER
SANCTIONS SET FORTH IN NEW YORK PUBLIC
HEALTH LAW SECTION 230-A. YOU ARE
URGED TO OBTAIN AN ATTORNEY FOR THIS
MATTER.**

DATED: Albany, New York

12.21

,2005


DENNIS P. WHALEN
Executive Deputy Commissioner

Inquires should be addressed to:

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

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

IN THE MATTER
OF
RONY CHATELAIN, P.A.
CO-05-11-5935-A

STATEMENT
OF
CHARGES

RONY CHATELAIN, P.A., Respondent, was authorized to practice medicine, as a Physician Assistant in New York state on November 5, 1982, by the issuance of license number 002079 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about September 15, 2005, in County Court of the State of New York, Nassau County, Mineola, New York, Respondent was found guilty, based on a plea of guilty, of: 1) Driving While Intoxicated, in violation of New York Vehicle and Traffic Law, §1192.2, a class E felony, and sentenced to four (4) weeks intermittent imprisonment, one (1) year operator's license revocation, five (5) years probation, a \$1,500.00 fine, a \$20.00 CVAF, and a \$275.00 surcharge; and 2) Aggravated unlicensed operation of a motor vehicle, in violation of New York Vehicle and Traffic Law §511.2, a misdemeanor, and was sentenced to three (3) years probation and a \$500.00 fine.

B. On or about October 27, 2005, in the ^{Supreme} County Court of the State of New York, Suffolk County, Respondent was found guilty, based on a plea of guilty, of Operating a Motor Vehicle Under the Influence of Alcohol, a felony, and sentenced to five (5) years probation with alco/narco conditions, a \$1,000.00 fine to be paid by December 27, 2005, and a mandatory surcharge in the amount of \$295.00 to be paid by December 27, 2005, and a one (1) year license suspension.

P.D.V.B.
12/21/05

SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York state law, in that Petitioner charges:

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

DATED: *Dec. 21*, 2005
Albany, New York

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