



*Public*  
STATE OF NEW YORK  
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.  
*Commissioner*

James W. Clyne, Jr.  
*Executive Deputy Commissioner*

May 4, 2010

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Susan Ann Murray, P.A.

Robert Bogan, Esq.  
NYS Department of Health  
433 River Street – Suite 303  
Troy, New York 12180-2299

**RE: In the Matter of Susan Ann Murray**

Dear Parties:

Enclosed please find the Determination and Order (No. 10-71) 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), (McKinney Supp. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "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,

James F. Horan, Acting Director  
Bureau of Adjudication

JFH:cah

Enclosure

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

IN THE MATTER  
OF  
SUSAN ANN MURRAY, P.A.

DETERMINATION  
AND  
ORDER

BPMC #10-71

**COPY**

A hearing was held on February 18, 2010, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated October 21, 2009, were served upon the Respondent, **SUSAN ANN MURRAY, P.A.**

Pursuant to Section 230(10)(e) of the Public Health Law, **Jerry Waisman, M.D.**, Chairperson, **Russell W. Denea, M.D.**, and **Thomas W. King, Jr. M.P.A., P.E.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **David A. Lenihan, Esq.**, Administrative Law Judge, served as the Administrative Officer. The Petitioner appeared by **Thomas G. Conway, Esq.**, General Counsel, by **Robert Bogan, Esq.** and **Michael G. Bass, Esq.** of Counsel. The Respondent, **Susan Ann Murray, P.A.**, did not appear, although duly served. Evidence was received and a transcript of these proceedings was 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 when 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 State 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 §6530(9)(b) and Education Law §6530(9)(d). Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

### WITNESSES

For the Petitioner:	None
For the Respondent:	None

### 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. **Susan Ann Murray, P.A.**, the Respondent, did not appear at the hearing although duly and personally served with process on November 2, 2009. (Petitioner's Exhibit 2.)
2. **Susan Ann Murray, P.A.**, the Respondent, was authorized to practice as a Physician Assistant in New York State on October 17, 1995, by the issuance of license number 005166 by the New York State Education Department (Petitioner's Ex. 4).
3. On February 28<sup>th</sup>, 2008, an Order was issued by the North Carolina Medical Board, which Order caused the Respondent's license to practice as a Physician Assistant to be SUSPENDED INDEFINITELY. (Petitioner's Ex. 5).

#### HEARING COMMITTEE CONCLUSIONS

The conduct resulting in the North Carolina Medical Board's disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

- a. New York Education Law §6530(2) (practicing the profession fraudulently or beyond its authorized scope);
- b. New York Education Law §6530(16) (failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine);
- c. New York Education Law §6530(20) (moral unfitness); and/or
- d. New York Education Law §6530(24) (practicing beyond the scope permitted by law). (Petitioner's Ex. 5).

## VOTE OF THE HEARING COMMITTEE

### **FIRST SPECIFICATION**

Respondent violated New York Education Law Section 6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized 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.

VOTE: Sustained (3-0)

### **SECOND SPECIFICATION**

Respondent violated New York Education Law Section 6530(9)(d) by having disciplinary action taken against her by a duly authorized 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.

VOTE: Sustained (3-0)

## HEARING COMMITTEE DETERMINATION

The Respondent did not appear at the hearing, either in person or by counsel. The Administrative Law Judge, after considering the documentary evidence, which included an Affidavit of Personal Service of the Notice of Referral Proceeding and the Statement of

Charges (Petitioner's Exhibit 2), ruled that the Petitioner had met the requirements of law for service of process, that jurisdiction had been established over the Respondent, and that the hearing could proceed on the merits notwithstanding the Respondent's absence.

On review of the record, it appears, from Exhibit 5, that the North Carolina Board found that the Respondent, Ms. Murray, while employed at North Raleigh Primary Care, failed to comply with the Board's regulations by:

- a. beginning to practice medicine as a Physician Assistant at North Raleigh Primary Care prior to receiving confirmation of her Intent to Practice Form as required by 21 North Carolina Administrative Code §32S.0112;
- b. issuing prescriptions without the required identifying information while working at North Raleigh Primary Care as required by 21 North Carolina Administrative Code §32S.0109;
- c. practicing as a Physician Assistant at North Raleigh Primary Care without a signed supervisory arrangement with her supervising physician as required by 21 North Carolina Administrative Code §32S.0110;
- d. failing to maintain documentation of quality improvement meetings with her supervising physician while working at North Raleigh Primary Care as required by 21 NCAC 328.0110;
- e. failing to obtain any instructions for the prescribing of prescription drugs, or a policy pertaining to the periodic review of her prescribing, while working at North Raleigh Primary Care as required by 21 North Carolina Administrative Code §32S.0109;
- f. failing to wear proper identification while working at North Raleigh Primary Care as required by 21 North Carolina Administrative Code § 32S.0116.

In addition, the North Carolina Board found that Ms. Murray failed to comply with their regulations by beginning to practice medicine as a Physician Assistant at Vance Family Medicine prior to receiving confirmation of her Intent to Practice Form as required by 21 North Carolina Administrative Code § 32S.0112. In addition, the North Carolina Board found that Ms. Murray failed to respond truthfully to the Board's inquiries regarding whether she saw and treated patients while working at Vance Family Medicine.

The Respondent did not contest the North Carolina findings. Furthermore, in her letter to Mr. Bogan, Exhibit A, the Respondent stated that she wasn't even aware that she had a New York license until she was notified of the present charges. She also stated that she was unaware of the North Carolina action until she moved to Minnesota and asked for licensure there. The Respondent stated that Minnesota merely reprimanded her for the North Carolina matter. The Respondent went on to state in her letter to Mr. Bogan that she now has an attorney in Minnesota who is attempting to resolve the North Carolina matter. For the present, the Respondent would like to have her New York license continued so that she could do traveling medicine during the summers.

The Hearing Committee considered all the evidence from both sides, including the letter of the Respondent, Exhibit A, her Minnesota Board of Medicine Stipulation, Exhibit B, and her Minnesota psychiatric evaluation, Exhibit C. The panel was concerned about the erratic behavior indicated in the North Carolina findings and determined that her New York license should be indefinitely suspended. The panel unanimously determined that she be required to reapply for reinstatement should she wish to practice in New York and that she be required to submit to a psychiatric evaluation at the time of such application.

ORDER

IT IS HEREBY ORDERED THAT:

1. The license of the Respondent to practice medicine in New York State is INDEFINITELY SUSPENDED.
2. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: New York, New York  
April 4, 2010

  
Jerry Walsman, M.D., Chairperson,

Russell W. Denea, M.D.,  
Thomas W. King, Jr. M.P.A., P.E.

To:

Susan Ann Murray, P.A.,

Robert Bogan, Esq.  
Attorney for Petitioner  
Associate Counsel  
NYS Department of Health  
Bureau of Professional Medical Conduct  
433 River Street, Suite 303  
Troy, New York 12180-2299

## APPENDIX 1

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

EXHIBIT

IN THE MATTER  
OF  
SUSAN ANN MURRAY, P.A.  
CO-08-04-2549-A

NOTICE OF  
REFERRAL  
PROCEEDING

TO: SUSAN ANN MURRAY, P.A.

SUSAN ANN MURRAY, P.A.

SUSAN ANN MURRAY, P.A.

**PLEASE TAKE NOTICE THAT:**

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law §§230(10)(p) and New York State Administrative Procedures Act §§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 9<sup>th</sup> day of December, 2009, at 1:00 p.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5<sup>th</sup> Floor, Troy, NY 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, that 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 who shall be an attorney admitted to practice in New York state. You may produce evidence and/or sworn testimony on your behalf. Such evidence and/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, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. JAMES F. HORAN, ACTING 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 ten (10) days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of New York Public Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten (10) 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 (6) copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen (14) 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 New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner demands, hereby, disclosure of the evidence that 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 and/or other evidence that cannot be photocopied.

**YOU ARE ADVISED, HEREBY, THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE (5) BUSINESS DAYS AFTER THEY ARE SERVED.**

Department attorney: Initial here



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 (5) 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  
*Oct. 21*, 2009

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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

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

IN THE MATTER  
OF  
SUSAN ANN MURRAY, P.A.  
CO-08-04-2549-A

STATEMENT  
OF  
CHARGES

SUSAN ANN MURRAY, P.A., Respondent, was authorized to practice as a Physician Assistant in New York state on October 17, 1995, by the issuance of license number 005166 by the New York State Education Department.

FACTUAL ALLEGATIONS

*Findings of Fact,  
Conclusions of Law,  
and Order of Discipline*

*16  
11/13/09*

A. On or about February 28, 2008, the North Carolina Medical Board, (hereinafter "North Carolina Board"), by a ~~Consent Order~~ (hereinafter "North Carolina Order"), inter alia INDEFINITELY SUSPENDED Respondent's Physician Assistant license, REPRIMANDED her, and required her to submit to an evaluation by the North Carolina Health Program and follow their recommendations, based on failing to comply with the North Carolina Board's regulations pertaining to the practice of medicine by physician assistants; failing to respond truthfully to the North Carolina Board's inquiries regarding whether she saw and treated patients while working at a medical facility; failing to respond truthfully to the North Carolina Board's inquiries regarding whether she saw and treated patients while working at a medical facility.

B. The conduct resulting in the North Carolina Medical Board's disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law §6530(2) (practicing the profession fraudulently or beyond its authorized scope);
2. New York Education Law §6530(16) (failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine);
3. New York Education Law §6530(20) (moral unfitness); and/or
4. New York Education Law §6530(24) (practicing beyond the scope permitted by law).

**SPECIFICATIONS**  
**FIRST SPECIFICATION**

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the findings was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

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

**SECOND SPECIFICATION**

Respondent violated New York Education Law §6530(9)(d) by having her license to practice suspended and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license suspension and/or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws New York state, in that Petitioner charges:

2. The facts in paragraphs A and/or B.

DATED: *Oct. 21*, 2009  
Albany, New York

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