

Public

IN THE MATTER
OF
CHARLES LIVINGSTON, RPA
CO-10-03-2048-A

COMMISSIONER'S
ORDER
AND
NOTICE OF
REFERRAL
PROCEEDING

TO: Charles Livingston, RPA
REDACTED

The undersigned, Sue Kelly, Executive Deputy Commissioner of Health, pursuant to New York Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that **CHARLES LIVINGSTON, RPA**, Respondent, licensed to practice medicine in the State of New York on September 21, 1993, by license number 004586, has been convicted of committing an act constituting a felony under New York state law, in the County Court, Orleans County, New York, and an act constituting a felony under New York state law, in the County Court, Wyoming County, New York, as is more fully set forth in the Statement of Charges attached, hereto, and made a part, hereof.

It is, therefore:

ORDERED, pursuant to New York Public Health Law §230(12)(b), effective immediately **CHARLES LIVINGSTON, RPA**, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is predicated on a valid New York State license to practice medicine.

ANY PRACTICE OF MEDICINE IN VIOLATION OF THIS COMMISSIONER'S ORDER SHALL CONSTITUTE PROFESSIONAL MISCONDUCT WITHIN THE MEANING OF NEW YORK EDUCATION LAW §6530(29) AND MAY CONSTITUTE UNAUTHORIZED MEDICAL PRACTICE, A FELONY, DEFINED BY NEW YORK EDUCATION LAW §6512.

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of New York Public Health Law §230 and New York State Administrative Procedure Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 18th day of October, 2012, at 10:30 a.m., at Riverview Center, 150 Broadway, Suite 510, Albany New York 12204, at the offices of the New York State Health Department and at such other adjourned dates, times, and places as the committee may direct. 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. Respondent shall appear in person at the hearing and may be represented by counsel who shall be an attorney admitted to practice in New York state. 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, and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. 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.

The hearing will proceed whether or not Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and adjournment requests are not, therefore, routinely granted. Requests for adjournments must be made in writing to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Riverview Center, 150 Broadway, Suite 510, Albany, NY 12204, ATTENTION: HON. JAMES F. HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION, and by telephone (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, 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 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 BE FINED OR SUBJECT TO OTHER
SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a.
YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN
THIS MATTER.**

DATED: Albany, New York

Sept. 13, 2012

REDACTED

Sue Kelly
Executive Deputy Commissioner of Health
New York State Department of Health

Inquires should be addressed to:

Jude B. Mulvey
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, New York 12237
(518) 473-4282

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

IN THE MATTER
OF
CHARLES LIVINGSTON, RPA
CO-10-03-2048A

AMENDED
STATEMENT
OF
CHARGES

CHARLES LIVINGSTON, RPA, Respondent, was authorized to practice medicine in New York state on September 21, 1993, by the issuance of license number 004586 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about April 2, 2012, in the Erie County Court, Orleans County, New York, Respondent was convicted of Criminal Sale of a Prescription for a Controlled Substance, a felony in violation of New York Penal Law § 220.65. Respondent was sentenced, among others, to six months incarceration, five (5) years probation, a \$325 surcharge, and his motor vehicle license was suspended for six months.

B. On or about April 5, 2012 in Wyoming County Court, Wyoming County, New York, Respondent was convicted of Criminal Sale of a Prescription for a Controlled Substance, a felony, in violations of New York Penal Law § 220.65. Respondent was sentenced to one year incarceration.

SPECIFICATION

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

1. The facts in Paragraph A; and/or
2. The facts in Paragraph B

DATED: *Sept. 26*, 2012
Albany, New York

REDACTED

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