

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH, BOARD OF )  
MEDICINE, )  
 )  
Petitioner, )  
 )  
vs. ) Case No. 10-1678PL  
 )  
JOHN D. CAMPBELL, M.D., )  
 )  
Respondent. )  
\_\_\_\_\_ )

RECOMMENDED ORDER

Pursuant to notice, a final hearing was held in this case by video teleconference on April 22 and 29, 2010, in Lakeland and Tallahassee, Florida, before Susan B. Harrell, a designated Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Robert Anthonie Milne, Esquire  
Ephraim Livingston, Esquire  
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Prosecution Services Unit  
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For Respondent: John D. Campbell, M.D., pro se  
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STATEMENT OF THE ISSUES

The issues in this case are whether Respondent violated Subsection 458.331(1)(s), Florida Statutes (2009),<sup>1</sup> and, if so, what discipline should be imposed.

PRELIMINARY STATEMENT

On March 16, 2010, the Department of Health (Department), filed an Administrative Complaint before the Board of Medicine (Board), alleging that Respondent, John D. Campbell, M.D. (Dr. Campbell), had violated Subsection 458.331(1)(s), Florida Statutes, "by being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition." At the time the Administrative Complaint was issued, Dr. Campbell was under an Emergency Suspension Order. Dr. Campbell requested an administrative hearing, and the case was forwarded to the Division of Administrative Hearings for assignment to an Administrative Law Judge.

The final hearing was commenced on April 22, 2010, by video teleconference. During the hearing, the undersigned sua sponte continued the final hearing to allow Dr. Campbell to complete his discovery and to allow Petitioner to depose Dr. Campbell's previously undisclosed witnesses. The final hearing was recommenced on April 29, 2010.

At the final hearing, the Department called James K. Hampton as its witness. Petitioner's Exhibits A through I; the depositions of Dano A. Leli, M.D., Ann Tyson, M.D., and Dr. Campbell; and exhibits to the depositions were admitted in evidence. Dr. Campbell testified in his own behalf and called Jerome Gropper, M.D., and James K. Hampton as his witnesses. Respondent's Exhibits 8, 8A, 10, 15, 15B, and 16 were admitted in evidence. Respondent's Exhibit 17 was not admitted in evidence. Joint Exhibits 1<sup>2</sup> and 2 were admitted in evidence.

The two-volume Transcript of the final hearing was filed on May 18, 2010. At the final hearing, the parties agreed to file their proposed recommended orders within 20 days of the filing of the Transcripts. On June 7, 2010, Petitioner filed a motion to extend the time for filing proposed recommended orders for an additional day. The motion was granted, and the time for filing proposed recommended orders was extended to June 8, 2010. Both parties filed proposed recommended orders, which have been considered in the preparation of this Recommended Order.

#### FINDINGS OF FACT

1. The Department is the state agency charged with regulating the practice of medicine in Florida pursuant to Chapters 456 and 458 and Section 20.43, Florida Statutes.

2. At all times material to this Administrative Complaint, Dr. Campbell was a licensed physician in the State of Florida, having been issued license number ME 34315.

3. Dr. Campbell has suffered two motor vehicle accidents which resulted in closed-head injuries and has sustained damage to his brain resulting from hypoxia from cervical spine surgery. He has some residual effects from his injuries such as some word-finding problems, a tendency to cry easily, trouble with his dexterity, and taking longer than normal to make a point. He takes medications for his brain injuries, including Exelon and Muvigil.

4. In or around January of 2005, Dr. Campbell self-contacted Professional Resource Network (PRN), which is the impaired practitioner's program for the Board of Medicine pursuant to Section 456.076, Florida Statutes. PRN is a program that monitors the evaluation, care, and treatment of impaired healthcare professionals. PRN oversees random drug screens and provides for the exchange of information between treatment providers and the Department for the protection of the public.

5. In or around November 2005, it was concluded that Dr. Campbell's then-current cognitive abilities were sufficient to practice medicine safely based on completing the Special Purpose Examination (SPEX). The SPEX is a computerized, multiple-choice examination of current knowledge used by state

medical boards to re-examine a licensed or previously-licensed physician's ongoing level of basic medical knowledge.

6. In or around April of 2006, Dr. Campbell entered into a licensure-long PRN contract, which included the involvement of a psychiatrist.

7. In or around December of 2006, the Agency for Health Care Administration (AHCA) performed a site visit regarding Dr. Campbell's participation in the LLC Medipass Program. Medipass (Medicaid Provider Access System) is a primary care case management program for Medicaid beneficiaries developed and administered by Florida Medicaid. Florida NetPass LLC provides clinical, pharmaceutical, diagnostic, and financial information for patients to their physicians. It also provides service network services, plan administration, utilization management, credentialing of members, data analysis and reporting, and preferred drug list education services.

8. By letter dated December 5, 2006, Dr. Campbell was advised by Health Network One, Inc. (HN1), of the immediate termination of his Primary Care Services Agreement with HS1 Medical Management, Inc. The basis for the termination of the contract was the site review conducted in December 2006, which led clinical staff to conclude that Dr. Campbell was not mentally competent to practice medicine at that time and that the continuation of the agreement would have a negative effect

on the patients' care. The termination of the contract meant that Dr. Campbell could not provide services to Florida NetPass, MediPass beneficiaries.

9. On April 10, 2007, AHCA advised Dr. Campbell that it was terminating his Medicaid Provider Agreement.

10. In July 2009, PRN sent Dr. Campbell a letter requesting that he provide an update from his psychiatrist, Ann Tyson, M.D. (Dr. Tyson). An update was provided in October 2009 by Dr. Tyson, who concluded that Dr. Campbell's diagnosis and/or medication at that time did not affect his ability to practice medicine.

11. In October 2009, PRN notified Dr. Campbell that it was necessary for him to get new neuropsychological testing done. Dr. Campbell did not have the funds to get the testing done at that time.

12. In December 2009, Dr. Campbell saw Dano A. Leli, Ph.D. (Dr. Leli), for a neuropsychological evaluation. Dr. Leli credibly concluded as follows:

Based on all of the findings contained in this neuropsychological evaluation coupled with the information provided in the available records, Dr. [Campbell] does not appear to be safe to practice his profession as a physician. This conclusion is based on his above-described neuro-cognitive and motor deficits; poor impulse control, emotional lability, lack of respect for interpersonal boundaries, poor stress tolerance, impaired interpersonal reasoning,

judgment, planning, and problem-solving skills; lack of insight to how his various disorders are affecting his professional behavior; and his seeming difficulty in receiving any type of constructive feedback designed to help him alter his behavior in a more adaptive fashion.

In his deposition, Dr. Leli credibly testified that it was his opinion that Dr. Campbell was not safe to practice medicine at this time.

13. Dr. Campbell has difficulty with interpersonal space. For example, he continued to unintentionally kick the test examiner under the table during his evaluation testing. He also rested his hands unusually close to the examiner's hands to the extent that it made the examiner uncomfortable. Dr. Campbell did not recognize that he needed to keep boundaries between them. A physician needs to be able to maintain personal boundaries with his patients. Dr. Campbell's inability to maintain appropriate personal boundaries adversely affects his ability to practice medicine.

14. Dr. Campbell demonstrated poor impulse control and poor stress tolerance during his neuropsychological evaluation. He swore frequently during the testing and had loud verbal temper outbursts. A physician needs to be able to keep his emotions in check when he is seeing patients; otherwise, a physician cannot effectively respond to his patients.

15. During the evaluation, Dr. Campbell told Dr. Leli that he was impulsive and that he cares for his patients too much. Dr. Campbell told Dr. Leli that if he had a patient who was experiencing a heart attack that he would take the patient to the hospital in his personal car rather than call 911 for an ambulance and paramedics. When Dr. Leli asked Dr. Campbell whether Dr. Campbell understood the liability of doing that or the danger to the patient, Dr. Campbell replied that he would still take the patient to the hospital himself. Dr. Campbell's poor impulse control and poor judgment adversely affect his ability to practice medicine.

16. Dr. Campbell has difficulty in judgment, planning, and problem solving. During the evaluation process, Dr. Campbell kept excusing himself to go to a nearby vending machine to get soft drinks. He went so many times, that the evaluator finally told him to go to a convenience store and purchase as many soft drinks as he needed so that they could finish the testing without the interruptions. Additionally, Dr. Campbell had difficulty in using the vending machine. He tried to put a dollar bill in the machine, but the machine would not take the bill. Dr. Campbell went back to the evaluator, got change, and went back to the vending machine. Dr. Campbell did not seem to know what to do with the coins. Finally, the evaluator told him to put the coins in the machine. A physician needs to be able



to plan and problem solve in dealing with patients.

Dr. Campbell's difficulties in these areas adversely affect his ability to practice medicine.

17. Dr. Campbell demonstrated difficulty with motor skills during the evaluation. He was given a test in which he was to tap a key similar to a telegraph key with his finger. He was unable to tap the key with his finger; instead, he placed his whole hand on the key. Dr. Campbell told Dr. Leli that he was having difficulties with his fine motor skills, particularly with his left upper extremity. Dr. Campbell also relayed that he was having tremors in both upper extremities. A physician needs to have fine motor skills in order to touch his patients and make evaluations as well as to use mechanical devices. Dr. Campbell's difficulties with motor skills adversely affect his ability to practice medicine.

18. Dr. Campbell does not understand how his behavior is affecting other people. During the evaluation, Dr. Campbell began to explain to the examiner a diagnosis of diabetes. After he explained the process, which included the drawing of diagrams, Dr. Campbell asked the examiner to reiterate to him what he had just explained, as if he were trying to educate the examiner. The explanation of diabetes was inappropriate in the context of an evaluation setting, and Dr. Campbell did not appear to know that it was inappropriate.

19. The test results of the evaluation demonstrated that Dr. Campbell's visual-motor intellectual abilities were significantly declined when compared to functioning on at least a high average level prior to his injuries. He showed a significant decline on tests of visual concentration and attention. He also had difficulties with auditory processing.

20. Dr. Campbell was given a verbal memory test of stories. He would read a story and then would immediately relate the contents of the story. Thirty minutes after reading the story, he would be asked to relate the contents of the story again. Dr. Campbell was average on immediate retrieval, but was borderline impaired on delayed retrieval. This memory problem would adversely affect his care of patients if he cannot recall what the patient has told him within 30 minutes of the conversation with the patient.

21. Dr. Campbell demonstrated difficulties in paying attention to fine visual detail. This impairment adversely relates to the practice of medicine because a physician has to examine a patient's body and pay attention to fine detail in order to properly evaluate the patient.

22. Dr. Campbell demonstrated some persecutory thinking during his evaluation, where he perceives that people, who are not out to get him, are trying to hurt him. Such thinking can adversely affect his ability to practice medicine because he

could easily misperceive an interaction between him and a patient causing him to lose his clinical demeanor and clinical efficacy.

23. In January 2010, Dr. Campbell advised Jerome Gropper, M.D., who was Dr. Campbell's case manager at PRN, that he had had neuropsychological testing done in December 2009. This was the first time that Dr. Gropper had heard that Dr. Campbell had been tested. Dr. Gropper asked Dr. Campbell to send him a copy of the test results.

24. During January 2010, Dr. Campbell also advised Dr. Gropper that on the way to the testing in December 2009 that he had fallen, had hurt his back, and had taken some Lyrica. The effects of the Lyrica caused him not to be able to finish the test, and he had to come back later to finish the test. On the way home from the first testing he banged up his car. Another time he had taken Lyrica and had made a left hand turn on a red light and had stopped at a green light.

25. Dr. Campbell was required to keep PRN apprised of all the medications that he was taking, and he had failed to do so before taking the Lyrica. Dr. Gropper asked Dr. Campbell if he had a prescription for Lyrica, Dr. Campbell said that he did. When questioned about the prescription, Dr. Campbell became upset and started yelling.

26. Dr. Campbell also told Dr. Gropper that the reason that he had been upset during the site visit in December 2006 was because he had taken Neurontin for back pain, and he had an adverse reaction to the drug.

27. Dr. Gropper asked Dr. Campbell to send a copy of the prescription for Lyrica to PRN. When PRN received a copy of the prescription, it was learned that the medication had been prescribed in 2006. Dr. Gropper considered the taking of a three-year-old prescription to be self-medicating.

28. By letter dated February 12, 2010, Judy S. Rivenbark, M.D., the acting medical director of PRN, notified Dr. Campbell that his monitoring contract with PRN was terminated and that his case would be referred to the Department for further action. By letter dated February 16, 2010, Dr. Rivenbark advised the Department that Dr. Campbell had failed to progress in the PRN program and that PRN was unable to say whether Dr. Campbell was able to practice with reasonable skill and safety.

29. Dr. Tyson has been Dr. Campbell's psychiatrist since 2007. When asked on deposition whether Dr. Campbell was competent to practice medicine, she replied:

I don't know that. I think there are problems that have been magnified by this process, and I think that, given [Dr. Campbell's] strengths, that [he] should be given a chance to practice medicine. And I think the only way that will happen is if

[he] practice [sic] under the supervision of someone.

When asked if it was her opinion that Dr. Campbell could practice safely without the supervision of another physician, Dr. Tyson replied, "I don't think that I should assume, at this point, that he could practice safely without supervision, no."

#### CONCLUSIONS OF LAW

30. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding. §§ 120.569 and 120.57, Fla. Stat.

31. Petitioner has the burden to establish the allegations in the Administrative Complaint by clear and convincing evidence. Department of Banking and Finance v. Osborne Stern and Company, 670 So. 2d 932 (Fla. 1996).

32. Petitioner has alleged that Dr. Campbell violated Subsection 459.331(1)(s), Florida Statutes, which provides that discipline may be imposed if a physician is determined to be "unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition."

33. Petitioner has established by clear and convincing evidence that Dr. Campbell is unable to practice medicine with reasonable skill and safety to patients by reason of illness and

mental and physical conditions as set forth in paragraphs 12 through 22 above.

34. The disciplinary guidelines of the Board are found in Florida Administrative Code Rule 64B8-8.001. The disciplinary guidelines for a violation of Subsection 458.331(1)(s), Florida Statutes, ranges from probation to denial or indefinite suspension until the licensee is able to demonstrate the ability to practice with reasonable skill and safety followed by probation and an administrative fine from \$1,000 to \$5,000.

#### RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that a final order be entering finding that Dr. Campbell has violated Subsection 458.331(1)(s), Florida Statutes, and suspending his license indefinitely until Dr. Campbell is able to demonstrate the ability to practice with reasonable skill and safety, followed by probation.

DONE AND ENTERED this 28th day of July, 2010, in  
Tallahassee, Leon County, Florida.

*Susan B. Harrell*

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Filed with the Clerk of the  
Division of Administrative Hearings  
this 28th day of July, 2010.

ENDNOTES

<sup>1/</sup> Unless otherwise indicated, all references to the Florida Statutes are to the 2009 version.

<sup>2/</sup> The parties stipulated to certain portions and revisions to paragraphs 1 through 6 and 8 of the Administrative Complaint. The parties did not agree to the remaining paragraphs of the Administrative complaint.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.