

BEFORE THE BOARD OF
PHYSICIAN ASSISTANT EXAMINERS

IN THE MATTER OF THE)	
STATEMENT OF CHARGES)	
AGAINST)	NO. 04-013; 05-003
)	
CHERI BUSH-MCCLELLAND,)	NOTICE OF HEARING
)	
License No. 600001358)	
)	
RESPONDENT.)	

COMES NOW the Iowa Board of Physician Assistant Examiners and files this Notice of Hearing pursuant to Iowa Code Section 17A.12(2). Respondent was issued Iowa Physician Assistant license no. 600001358. That license is active and will next expire on September 30, 2007.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing be held on July 19, 2006, before the full Board of Physician Assistant Examiners. The hearing shall begin at 9:30 and shall be located in the Professional Licensure Board Room, fifth floor, Lucas State Office Building at 321 E. 12th Street, Des Moines, Iowa.

2. Answer. Within twenty (20) days of the date you are served this Notice of Hearing you are required by 645 Iowa Administrative Code 11.12 to file an Answer. In that Answer, you should also state whether you will require a continuance of the date and time of the hearing.

3. Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on prehearing matters, and be present to assist and advise the board at hearing.

4. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 645 Iowa Administrative Code Chapter 11.19. At hearing, you will be allowed the

opportunity to respond to the charges against you, to produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally or be represented by counsel at your own expense. If you need to request an alternative time or date for hearing, you must review the requirements in 645 Iowa Administrative Code 11.16. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

5. Prosecution. The office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address: Emily Kimes-Schwiesow, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

6. Communications. You may not contact board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case. You should direct any questions to Assistant Attorney General Emily Kimes-Schwiesow at 515-281-5637.

B. LEGAL AUTHORITY AND JURISDICTION

7. Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 17A, 147, 148C, and 272C (2005).

8. Legal Authority: If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 148C, and 272C (2005) and 645 Iowa Administrative Code Chapter 329.

9. Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code Section 17A.12(3) and 645 Iowa Administrative Code 11.21.

C. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

10. Respondent is charged with violation of Iowa Code § 147.55(5), Iowa Code § 272C.10(5), and 645 IAC 329.2(11) for conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within the profession.

Count II

11. Respondent is charged with violation of 645 IAC 329.2(13) for revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action.

D. STATEMENT OF MATTERS ASSERTED

12. A short and plain Statement of the Matters Asserted was reviewed and approved by the Board at the time this Notice of Hearing was filed. A Statement of the Matters Asserted shall be furnished to Respondent as an attachment to this Notice. However, this short and plain statement of the matters asserted is not a public record.

On October 15, 2003, the Iowa Board of Physician Assistant Examiners issued a Combined Statement of Charges, Settlement Agreement, Consent Order and Final Order involving the Respondent. Respondent was charged with violating Iowa Code § 147.55(3) (2001 and 2003), Iowa Code § 272C.10(5) (2001 and 2003), 645 IAC 325.11(3)(c), and 645 IAC 325.11(3)(v) for engaging in conduct harmful and detrimental to the public and engaging in felonious conduct in violation of the laws of the United States which relates to the practice of physician assistant when Respondent pled guilty to "Use and Attempt to Use, with the Intent to Defraud, an Unauthorized Access Device (Credit Card)" on January 24, 2002 in the United States District Court for the Southern District of Iowa. Respondent's physician assistant license was placed on probation for 14 months, and was subject to additional terms and conditions.

E. SETTLEMENT

12. Settlement. This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 Iowa Administrative Code 12.1. If you are interested in pursuing settlement of this matter, please contact Emily Kimes-Schwiesow, Assistant Attorney General, at 515/281-5637.

F. PROBABLE CAUSE FINDING

13. On this 17th day of May, 2006, the Iowa Board of Physician Assistant Examiners found probable cause to file this Notice of Hearing.

This Notice of Hearing is approved by the Board on May 17, 2006.