

**These charges are only allegations which  
may be contested by the licensee in an  
administrative hearing.**

---

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

**IN THE MATTER  
OF  
STEVEN GELBARD, M.D.**

**NOTICE OF  
REFERRAL  
PROCEEDING**

TO: STEVEN GELBARD, M.D.

2706 West Atlantic Boulevard  
Pompano Beach, FL 33069

Pompano Beach, FL 33066

**PLEASE TAKE NOTICE THAT:**

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §230(10) (p) and N.Y. State Admin. Proc. 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 April 19, 2017, at 10:30 a.m., at the offices of the New York State Department of Health, 90 Church Street, 4<sup>th</sup> Floor, New York, NY 10007.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which 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 or sworn testimony on your behalf. 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 which 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, Riverview Center, 150 Broadway - Suite 510, Albany, NY 12204-2719, ATTENTION: HON. JAMES HORAN, 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 twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10) (p), you shall file a written answer to each of the charges and allegations in the Statement of Charges at least ten 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. You may also file a written brief and affidavits with the Committee. All such documents 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, at least ten days prior to the date of the hearing. Should the parties have objection(s) to proposed witnesses or documentary evidence, the party raising the objection(s) shall contact the Bureau of Adjudication at least three days prior to the hearing date to arrange for a pre-hearing conference with the Administrative Law Judge, prior to the hearing date.

Not later than ten days prior to the date of the hearing, you are required to file one copy of your proposed exhibits (if any) with the Bureau of Adjudication at the address indicated above, and a copy of all such documents/exhibits must be served on the same date on the Department of Health attorney indicated below. On the day of the hearing, you are also required to provide the original of such exhibits and three copies, for use by the Committee.

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 N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the 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 or other evidence which cannot be photocopied. A summary of the Department of Health Hearing Rules is enclosed.

YOU ARE HEREBY ADVISED THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE 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 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.

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 OUT IN NEW  
YORK PUBLIC HEALTH LAW §§230-a. YOU ARE URGED  
TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN  
THIS MATTER.

DATED: New York, New York  
February 6, 2017

  
Roy Nemerson  
Deputy Counsel  
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

John Thomas Viti  
Associate Counsel  
Bureau of Professional Medical Conduct  
90 Church Street, 4<sup>th</sup> Floor  
New York, NY 10007  
(212) 417-4450

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

IN THE MATTER  
OF  
STEVEN GELBARD, M.D.

STATEMENT  
OF  
CHARGES

STEVEN GELBARD, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 7, 1987, by the issuance of license number 171648 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about December 30, 2013, The State of Florida, Board of Medicine ("Florida Board") issued a Final Order after having opened an investigation into the conduct and medical practice of Respondent. The Final Order impose a Reprimand, required the Respondent to pay a \$20,000.00 fine and \$26,229.21 in cost, and required the Respondent to complete Continuing Medical Education and to undergo an evaluation by Florida CARES. The Order also prohibited Respondent's use of "off-label" products and prohibited him from performing surgery or procedures unless or until Respondent completed Florida CARES and receives approval from the Florida Board. The Final Order approved a Florida Board Counter Settlement Agreement that revised and incorporated a State of Florida Department of Health Settlement Agreement ("Settlement Agreement") dated on or about December 2, 2013. The Settlement Agreement, in which the Respondent neither admitted nor denied the allegations of facts, was based on two (2) separate, State of Florida Department of Health Administrative Complaints (the "Complaints"). The First Complaint alleged that the Respondent, with respect to patient N.R. failed to provide proper post-operative

treatment and care; knowingly and intentionally repeatedly using an unauthorized packing material, Sani-cloth wipes, for packing Patient's N.R. wounds; knowingly and intentionally leaving a foreign body (Sani-cloths wipes) in Patient N.R.; performing the procedure of packing Patient's N.R. wound with a material not intended to be used on or within the human body, without obtaining full informed, written consent from Patient N.R., thereby violating Florida Statue Chapters, 458.331(1)(t), 458.331(1)(u), and 456.072(1)(cc). In addition, the First Complaint alleged that Respondent violated 456.072(1)(w) by failing to timely update profiling and credential requirements with respect to Respondent's precautionary suspension from the facility at which Respondent had privileges. The Second Complaint alleged that Respondent failed to properly obtain fully informed consent prior to performing a procedure on Patient D.L.; failed to provide proper post-operative treatment; failed to adequately diagnose postoperative complaints, and failed to personally examine Patient D.L. prior to discharge, thereby violating Florida Statue Chapters, 458.331(1)(t).

1. The conduct resulting in the Order would, collectively, constitute misconduct under the laws of New York State, pursuant to New York Education Law Section 6530(3) (Practicing the profession with negligence on more than one occasion), §6530(4) (Practicing the profession with gross negligence on a particular occasion), §6530(5) (Practicing the profession with incompetence on more than one occasion), §6530(6) (Practicing the profession with gross incompetence), §6530(16) (A willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules or regulations governing the practice of medicine), §6530(26) (Performing professional services which have not been duly authorized by the patient), and §6530(30) (Abandoning or neglecting a patient under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care),

**SPECIFICATION OF CHARGES**

**FIRST SPECIFICATION**

**HAVING HAD DISCIPLINARY ACTION TAKEN**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state, namely N.Y. Educ. Law §6530(3), (4), (5), (6), (16), (26) and (30), as alleged in the facts of the following:

1. The facts in Paragraph A and its subparagraph.

DATE: February 6, 2017  
New York, New York

  
\_\_\_\_\_  
Roy Nemerson  
Deputy Counsel  
Bureau of Professional Medical Conduct