

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

BPMC No. 20-156

IN THE MATTER  
OF  
FRANK HOWARD BYNES, JR., M.D.

COMMISSIONER'S  
ORDER OF  
SUMMARY  
ACTION

TO: FRANK HOWARD BYNES, JR., M.D.  


The undersigned, Howard A. Zucker, M.D., J.D., Commissioner of Health, pursuant to N.Y. 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 Frank Howard Bynes, Jr., M.D., New York license number 180079 (henceforth "Respondent"), was convicted in the case United States of America v. Frank H. Bynes, Jr. (CR 418-153) in the United States District Court, Southern District of Georgia, Savannah Division of committing an act constituting a felony under federal law as is more fully set forth in the Statement of Charges attached to the Notice of Hearing and made a part hereof.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law §230(12)(b), that effective immediately, Respondent shall not practice medicine in the State of New York, or practice in any setting under the authority of Respondent's New York license.


Any practice of medicine in violation of this Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530(29) and may constitute unauthorized medical practice, a Felony defined by N.Y. Educ. Law §6512.

This Order shall remain in effect until the final conclusion of a hearing which shall commence within ninety days of the service of this order and shall end within ninety days thereafter. The hearing will be held pursuant to the provisions of N.Y. Pub. Health Law

§230, and N.Y. State Admin. Proc. 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 a date and at a location to be set forth in a written Notice of Hearing or Notice of Referral Proceeding provided to the Respondent contemporaneously with this Order.

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  
June 23, 2020

  
Howard A. Zuckel, M.D., J.D.  
Commissioner of Health  
New York State Department of Health

Inquiries should be directed to:

Trudy A. Menard  
Senior Attorney  
N.Y.S. Department of Health  
Division of Legal Affairs  
Bureau of Professional Medical Conduct  
Corning Tower, Room 2512  
Empire State Plaza  
Albany, New York 12237  
(518) 473-4282  
(518) 473-2430 Fax

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

IN THE MATTER  
OF  
FRANK HOWARD BYNES, JR., M.D.

NOTICE OF  
REFERRAL  
PROCEEDING

TO: FRANK HOWARD BYNES, JR., M.D.  


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 August 12, 2020, at 10:30 a.m., at the offices of the New York State Department of Health, Riverview Center, 150 Broadway, Suite 510, Menands (Albany), NY 12204-2719,<sup>1</sup> or by video conference as directed by the Administrative Law Judge, and at such other adjourned dates, times and places as the committee may direct.

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, or by video conference if directed by the Administrative Law Judge, 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

<sup>1</sup> For GPS purposes, enter "Menands", not "Albany".

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.

YOU ARE HEREBY ADVISED THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE BUSINESS DAYS AFTER THEY ARE SERVED.

Department attorney: Initial here [REDACTED]

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: Albany, New York  
June 23, 2020

[REDACTED]  
TIMOTHY J. MAHAR/  
Deputy Counsel  
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Trudy A. Menard  
Senior Attorney  
N.Y.S. Department of Health  
Division of Legal Affairs  
Bureau of Professional Medical Conduct  
Corning Tower, Room 2512  
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NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER  
OF  
FRANK HOWARD BYNES, JR., M.D.

STATEMENT  
OF  
CHARGES

FRANK HOWARD BYNES, JR., M.D., the Respondent, was authorized to practice medicine in New York State on or about September 20, 1989, by the issuance of license number 180079 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about February 14, 2020, Respondent was convicted in the United States District Court, Southern District of Georgia, Savannah Division of thirteen (13) felony counts of unlawful dispensation of controlled substances (21 U.S.C. §841(a)(1)) and three (3) felony counts of health care fraud (18 U.S.C. §1347) along with a forfeiture allegation.

The conviction resolved allegations that beginning on or about March 2015 through December 2016, Respondent wrote significant numbers of prescription narcotics and other controlled substances which were not prescribed for a legitimate medical purposes and which were not distributed within the usual course of professional practice. It was also alleged that Respondent prescribed controlled substances while, or after, engaging in unprofessional conduct with female patients. Respondent falsified medical records and prescribed dangerous quantities of controlled substances without

adequate patient history, appropriate examination or verification of medical history. The Respondent was sentenced to 240 months of imprisonment and ordered to pay \$615,145.06 in restitution to Medicaid, Medicare, and Tricare, among other things.

**SPECIFICATION OF CHARGES**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law as alleged in the facts of the following:

A. The facts in paragraph A.

DATE: June 23, 2020  
Albany, New York

  
TIMOTHY J. MAHAR /  
Deputy Counsel  
Bureau of Professional Medical Conduct