



Barbara A. DeBuono, M.D., M.P.H.
Commissioner of Health

New York State Board for Professional Medical Conduct

433 River Street, Suite 303 Troy, New York 12180-2299 • (518) 402-0863

Patrick F. Carone, M.D., M.P.H.

Chair

Ansel R. Marks, M.D., J.D.

Executive Secretary

June 27, 1997

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Gary L. Gaines, M.D.
1609 Sherman Drive
Utica, New York 13501

RE: License No. 187066

Dear Dr. Gaines:

Enclosed please find Order #BPMC 97-152 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

Board for Professional Medical Conduct
New York State Department of Health
Hedley Park Place, Suite 303
433 River Street
Troy, New York 12180

Sincerely,

Ansel R. Marks, M.D., J.D.

Executive Secretary

Board for Professional Medical Conduct

Enclosure

cc: Peter M. Hobaica, Esq.
Hage & Hobaica
610 Charlotte Street
Utica, New York 13501

Timothy J. Mahar, Esq.

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

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IN THE MATTER	:	SURRENDER
OF	:	ORDER
GARY L. GAINES, M.D.	:	BPMC # 97-152

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GARY L. GAINES, M.D., says:

On or about September 26, 1991, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 187066 by the New York State Education Department.

My current address is 1609 Sherman Drive, Utica, New York 13501 and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I am currently registered with the New York State Education Department to practice as a physician in the State of New York.

I understand that I have been charged with three specifications of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A".

I am applying to the State Board for Professional Medical Conduct for an agreement to allow me to surrender my license as a

physician in the State of New York and request that the Board issue this Surrender Order.

I hereby agree not to contest the first and second specifications and the factual allegations pertaining to those specifications as set forth in the Statement of Charges (Exhibit A) in full satisfaction of all of the specifications and allegations set forth in the Statement of Charges.

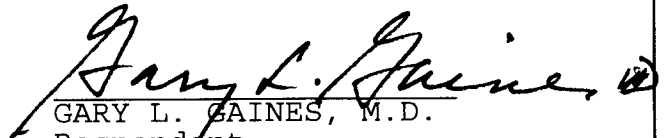
I understand that, in the event that this proposed agreement is not granted by the State Board for Professional Medical Conduct, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such proposed agreement shall not be used against me in any way, and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct pursuant to the provisions of the Public Health Law.

I agree to respond promptly to all requests for the records of my former patients and with due diligence shall provide such records to former patients when requested.

I agree that in the event the State Board for Professional Medical Conduct agrees with my proposal, this Order shall be

issued striking my name from the roster of physicians in the State of New York without further notice to me.

I am making this agreement of my own free will and accord and not under duress, compulsion, or restraint of any kind or manner.


GARY L. GAINES, M.D.
Respondent


Subscribed before me this
12 day of JUNE, 1997


NOTARY PUBLIC


JOHN BROSINAN
Notary Public, State of New York
Commissioned in Oneida County
My Commission Expires 11-13-97

AGREED TO:

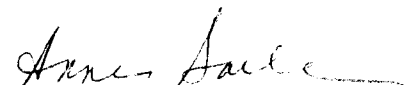
Date: 6/12, 1997


PETER M. HOBAICA, Esq.
of counsel to Hage & Hobaica
Attorneys for Respondent

Date: June 13, 1997


TIMOTHY J. MAHAR
Assistant Counsel
Bureau of Professional
Medical Conduct

Date: June 16, 1997


ANNE F. SAILE
Director, Office of
Professional Medical Conduct

ORDER

Upon the proposed agreement of GARY L. GAINES, M.D., to Surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is AGREED TO and

ORDERED, that the proposed agreement and the provisions thereof are hereby adopted; it is further

ORDERED, that the name of Respondent be stricken from the roster of physicians in the State of New York; it is further

ORDERED, that this Order shall take effect as of the date of the personal service of this Order upon Respondent, upon receipt by Respondent of this Order via certified mail, or seven days after mailing of this Order via certified mail, whichever is earliest.

DATED: June 24, 1997

Patrick F. Carone, M.D.

PATRICK F. CARONE, M.D., M.P.H.
Chair
State Board for Professional
Medical Conduct

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

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IN THE MATTER : STATEMENT
OF : OF
GARY L. GAINES, M.D. : CHARGES

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GARY L. GAINES, M.D., the Respondent, was authorized to practice medicine in New York State on September 26, 1991 by the issuance of license number 187066 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent, on various occasions since approximately Spring of 1996, has practiced medicine while impaired by drugs.

B. Respondent, since approximately Spring of 1996, has been a habitual abuser of alcohol and/or dependent on or a habitual user of narcotics or barbiturates or amphetamines or hallucinogens or other drugs having similar effects, including, but not limited to, cocaine.

C. Respondent, during the period from approximately June through August of 1996, made inappropriate comments of a sexual nature to Hospital Employee A at Faxton Hospital in Utica, New York.

SPECIFICATIONS

FIRST SPECIFICATION

Respondent is charged with professional misconduct under N.Y. Educ. Law § 6530(7) [McKinney Supp. 1997] by reason of his practicing medicine while impaired by drugs in that Petitioner charges:

1. The facts in paragraph A.

SECOND SPECIFICATION

Respondent is charged with professional misconduct under N.Y. Educ. Law § 6530(8) [McKinney Supp. 1997] by reason of his being a habitual abuser of alcohol and/or dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens or other drugs having similar effects, in that Petitioner charges:

2. The facts in paragraph B.

THIRD SPECIFICATION

Respondent is charged with professional misconduct under N.Y. Educ. Law § 6530(20) [McKinney Supp. 1997] by reason of his having engaged in conduct in the practice of medicine which evidences moral unfitness in the practice of medicine in that Petitioner charges:

3. The facts in paragraph C.

DATED: , 1997
Albany, New York

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