



Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

Board for Professional Medical Conduct

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

C. Maynard Guest, M.D.
Executive Secretary

December 2, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Charles Gajeway, D.O.
17 State Street
Troy, New York 12180

045382

RE: License No. ~~045383~~

Effective date: 12/9/94

Dear Dr. Gajeway:

Enclosed please find Order #BPMC 94-253 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
Empire State Plaza
Tower Building-Room 438
Albany, New York 12237-0756

Sincerely,

C. Maynard Guest, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

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

-----X

IN THE MATTER :
OF : ORDER
CHARLES GAJEWAY, D.O. : BPMC #94-253

-----X

Upon the Application of Charles Gajeway, D.O. (Respondent) to Surrender his license as a physician in the State of New York, which application is made a part hereof, it is

ORDERED, that the application 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.

SO ORDERED,

DATED: 22 November 1994

Charles J. Vacanti

CHARLES J. VACANTI, M.D.
Chairperson
State Board for Professional
Medical Conduct

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

-----X

IN THE MATTER	:	APPLICATION TO
OF	:	SURRENDER
CHARLES GAJEWAY, D.O.	:	LICENSE

-----X

STATE OF NEW YORK)

ss.:

COUNTY OF RENSSELAER)

Charles Gajeway, D.O., being duly sworn, deposes and says:

On or about February 17, 1947, I was licensed to practice medicine as a physician in the State of New York having been issued License No. ~~045383~~ by the New York State Education Department. *045382*

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 seventeen 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 permission to surrender my license as a physician in

the State of New York on the grounds that I admit to Specification 13 in full satisfaction of the charges.

I hereby make this application to the State Board for Professional Medical Conduct and request that it be granted.

I understand that, in the event that the application 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 application 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 that in the event the State Board for Professional Medical Conduct grants my application, an 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 Application of my own free will and accord and not under duress, compulsion, or restraint of any kind or manner.

Charles Gajeway
CHARLES GAJEWAY, D.O.
Respondent

Sworn to before me this
8th day of Nov. , 1994

M. Andrew Rayner, Jr.
NOTARY PUBLIC

Notary Public, State of New York
Qualified in Putnam County
My Comm. Expires 1-13/95

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

-----X

IN THE MATTER : APPLICATION TO
OF : SURRENDER
CHARLES GAJEWAY, D.O. : LICENSE

-----X

The undersigned agree to the attached application of the
Respondent to surrender his license.

Date: Nov. 8, 1994

Charles Gajeway
CHARLES GAJEWAY, D.O.
Respondent

Date: Nov. 8, 1994

M. Andrew Dwyer, Jr.
M. ANDREW DWYER, JR., ESQ.
Attorney for Respondent

Date: _____, 1994

Karen Eileen Carlson
KAREN EILEEN CARLSON
Assistant Counsel
Bureau of Professional
Medical Conduct

Date: 11/1, 1994

Kathleen M. Tanner
KATHLEEN M. TANNER
Director, Office of
Professional Medical Conduct

Date: 22 November, 1994

Charles J. Vacanti
CHARLES J. VACANTI, M.D.
Chairperson, State Board
for Professional Medical Conduct

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

-----X

IN THE MATTER : NOTICE
OF : OF
CHARLES GAJEWAY, D.O. : HEARING

-----X

TO: Charles Gajeway, D.O.
17 State Street
Troy, New York 12180

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 (McKinney 1990 and Supp. 1994) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1994). The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 18th & 19th days of October, 1994, at 10:00a.m. in the forenoon of that day at the Court of Claims, Justice Building, Courtroom #1, Empire State Plaza, South Mall, Albany, New York, 12224 and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing and may be represented by counsel. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents and

you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the Administrative Law Judge's Office, Empire State Plaza, Tower Building, 25th Floor, Albany, New York 12237, (518-473-1385), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law Section 230 (McKinney 1990 and Supp. 1994), you may file an answer to the Statement of Charges not less than ten days prior to the date of the hearing. If you wish to raise an affirmative defense, however, N.Y. Admin. Code tit. 10, Section 51.5(c) requires that an answer be filed, but allows the filing of such an answer until three days prior to the date of the hearing. Any answer shall be forwarded to the attorney for the Department of Health whose name appears below. Pursuant to Section 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.

At the conclusion of the hearing, the committee shall make

findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty to be imposed or appropriate action to be taken. 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 THE OTHER SANCTIONS SET OUT IN NEW
YORK PUBLIC HEALTH LAW SECTION 230-a
(McKinney Supp. 1994). YOU ARE URGED TO
OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS
MATTER.

DATED: Albany, New York
August 29, 1994



PETER D. VAN BUREN
Deputy Counsel

Inquiries should be directed to: Karen E. Carlson
Assistant Counsel
Division of Legal Affairs
Bureau of Professional
Medical Conduct
Corning Tower Building
Room 2429
Empire State Plaza
Albany, New York 12231-
(518) 473-4282

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

-----X

IN THE MATTER : STATEMENT
OF : OF
CHARLES GAJEWAY, D.O. : CHARGES

-----X

CHARLES GAJEWAY, D.O., the Respondent, was authorized to practice medicine in New York State on February 17, 1947, by the issuance of license number ⁰⁴⁵³⁸²~~045383~~ by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1993 through December 31, 1994 at 17 State Street, Troy, New York, 12180.

FACTUAL ALLEGATIONS

A. Respondent provided medical care to Patient A [all patients are identified in Appendix I] at various times from approximately March 10, 1993 through approximately May 12, 1993, at his office at 17 State Street, Troy, New York [hereinafter "Respondent's office"].

1. Respondent failed to obtain and/or document an adequate initial history and/or initial physical examination of Patient A.

2. Respondent failed to adequately evaluate and/or document such evaluation of Patient A during the course of treatment.
3. Respondent, at various times, failed to record adequate notes concerning the Lortab he prescribed for Patient A and/or the indications for such drug and/or the quantity of such drug and/or the instructions for use of such drug.
4. Respondent recorded, in his record of Patient A's March 10, 1993 office visit, that Patient A had "pain in leg" when, in fact, Respondent did not elicit such pain upon examination and/or Patient A had no such pain and/or made no such communication to Respondent, and Respondent knew such facts.
5. Respondent prescribed Lortab, a Schedule III controlled substance, to Patient A, which was not medically justified.
6. Respondent prescribed Lortab to Patient A in excessive amounts.
7. Respondent prescribed Lortab to Patient A on May 12, 1993, despite Patient A advising Respondent that he was going to give some of the medication to Patient A's girlfriend, which was not justified.

8. Respondent failed to maintain records for Patient A which accurately reflect the evaluation and treatment of Patient A.

B. Respondent provided medical care to Patient B at various times from approximately March 16, 1993 through approximately June 3, 1993, at Respondent's office.

1. Respondent failed to obtain and/or document an adequate initial history and/or initial physical examination of Patient B.
2. Respondent failed to adequately evaluate and/or document such evaluation of Patient B during the course of treatment.
3. Respondent, at various times, failed to record adequate notes concerning the drugs he prescribed for Patient B and/or the indications for such drugs and/or the quantity of such drugs and/or the instructions for use of such drugs.
4. Respondent at various times prescribed Lortab, a Schedule III controlled substance, and/or Percocet, a Schedule II controlled substance, and/or Oxycodone, a Schedule II controlled substance, and/or Xanax, a Schedule IV controlled substance, to Patient B which was not medically justified.



5. Respondent prescribed Lortab and/or Xanax to Patient B in excessive amounts.
6. On approximately May 4, 1993, and at times thereafter, Respondent prescribed Lortab and Xanax to Patient B when Respondent knew and/or should have known that Patient B was a substance abuser.
7. Respondent failed to maintain records for Patient B which accurately reflect the evaluation and treatment of Patient B.

C. Respondent provided medical care to Patient C at various times from approximately March 16, 1993 through approximately June 3, 1993 at Respondent's office.

1. Respondent failed to obtain and/or document an adequate initial history and/or initial physical examination of Patient C.
2. Respondent failed to adequately evaluate and/or document such evaluation of Patient C during the course of treatment.
3. Respondent at various times failed to record adequate notes concerning the drugs he prescribed for Patient C and/or the indications for such drugs and/or the quantity of such drugs and/or the instructions for such

use.

4. Respondent prescribed Xanax, a Schedule IV controlled substance, to Patient C which was not medically justified.
5. Respondent failed to maintain records for Patient C which accurately reflect the evaluation and treatment of Patient C.

D. Respondent provided medical care to patient D at various times from approximately June 26, 1992 through approximately June 3, 1993, at Respondent's office.

1. Respondent failed to obtain and/or document an adequate initial history and /or initial physical examination of Patient D.
2. Respondent failed to adequately evaluate and/or document such evaluation of Patient D during the course of treatment.
3. Respondent, at various times, failed to record adequate notes concerning the drugs he prescribed for Patient D and/or the indications for such drugs and/or the directions for use and/or the quantities prescribed

and/or the instructions for use.

4. Respondent prescribed Lortab, a Schedule III controlled substance, and/or Percocet, a Schedule II controlled substance, to Patient D which was not medically justified.
5. Respondent prescribed Lortab to Patient D in excessive amounts.
6. Respondent failed to maintain records for Patient D which accurately reflect the evaluation and treatment of Patient D.

E. Respondent provided medical care to Patient E at various times from approximately January 28, 1993 through approximately May 25, 1993 at Respondent's office.

1. Respondent failed to obtain and/or document an adequate initial history and/or initial physical examination of Patient E.
2. Respondent failed to adequately evaluate and/or document such evaluation of Patient E during the course of the treatment.

3. Respondent, at various times, failed to record adequate notes concerning the drugs he prescribed and/or the quantity of such drugs.
4. Respondent prescribed Lortab, a Schedule III controlled substance, to Patient E which was not medically justified.
5. Respondent prescribed Lortab to Patient E in excessive amounts.
6. Respondent failed to maintain records for Patient E which accurately reflect the evaluation and treatment of Patient E.

SPECIFICATION OF CHARGES

FIRST THROUGH FOURTH SPECIFICATIONS
PRACTICING THE PROFESSION WITH GROSS NEGLIGENCE ON
A PARTICULAR OCCASION

Respondent is charged with having committed medical misconduct under N.Y. Educ. Law §6530(4) (McKinney Supp. 1994) by reason of his having practiced the profession with gross negligence on a particular occasion, in that Petitioner charges :

1. The facts in paragraphs A and A.4, A.5, and/or A.6.
2. The facts in paragraphs B and B.3, B.4 and/or B.5.
3. The facts in paragraphs D and D.4, and/or D.5.
4. The facts in paragraphs E and E.4, and/or E.5.

FIFTH THROUGH EIGHTH SPECIFICATIONS
PRACTICING THE PROFESSION
WITH GROSS INCOMPETENCE

Respondent is charged with having committed medical misconduct under N.Y. Educ. Law §6530(6) (McKinney Supp. 1994) by reason of his having practiced the profession with gross incompetence, in that Petitioner charges:

5. The facts in paragraphs A and A.4, A.5, and/or A.6.
6. The facts in paragraphs B and B.3, B.4, and/or B.5.
7. The facts in paragraphs D and D.4, and/or D.5.

8. The facts in paragraphs E and E.4, and/or E.5.

NINTH SPECIFICATION
PRACTICING THE PROFESSION WITH NEGLIGENCE
ON MORE THAN ONE OCCASION

Respondent is charged with having committed medical misconduct under N.Y. Educ. Law §6530(3) (McKinney Supp. 1994) by reason of his having practiced the profession with negligence on more than one occasion in that Petitioner charges at least two of the following:

9. The facts in Paragraphs A and A.1, A and A.2, A and A.3, A and A.4, A and A.5, A and A.6, A and A.7, A and A.8, B and B.1, B and B.2, B and B.3, B and B.4, B and B.5, B and B.6, B and B.7, C and C.1, C and C.2, C and C.3, C and C.4, C and C.5, D and D.1, D and D.2, D and D.3, D and D.4, D and D.5, D and D.6, E and E.1, E and E.2, E and E.3, E and E.4, E and E.5 and/or E and E.6.

TENTH SPECIFICATION
PRACTICING THE PROFESSION WITH INCOMPETENCE
ON MORE THAN ONE OCCASION

Respondent is charged with having committed medical misconduct under N.Y. Educ. Law §6530(5) (McKinney Supp. 1994) by reason of his practicing profession with incompetence on more

than one occasion in that Petitioner charges at least two of the following:

10. The facts in Paragraphs A and A.1, A and A.2, A and A.3, A and A.4, A and A.5, A and A.6, A and A.7, A and A.8, B and B.1, B and B.2, B and B.3, B and B.4, B and B.5, B and B.6, B and B.7, C and C.1, C and C.2, C and C.3, C and C.4, C and C.5, D and D.1, D and D.2, D and D.3, D and D.4, D and D.5, D and D.6, E and E.1, E and E.2, E and E.3, E and E.4, E and E.5, and/or E and E.6.

ELEVENTH THROUGH TWELFTH SPECIFICATIONS

PRACTICING THE PROFESSION FRAUDULENTLY

Respondent is charged with having committed medical misconduct under N.Y. Educ. Law section 6530(2) (McKinney Supp. 1994) by reason of his practicing the profession fraudulently in that Petitioner charges:

11. The facts in Paragraphs A and A.4 and/or A and A.7.
12. The facts in Paragraphs B and B.5.

THIRTEENTH THROUGH SEVENTHTEENTH SPECIFICATIONS

**FAILING TO MAINTAIN A RECORD FOR EACH
PATIENT WHICH ACCURATELY REFLECTS THE
EVALUATION AND TREATMENT OF EACH PATIENT**

Respondent is charged with having committed medical misconduct under N.Y. Educ. Law section 6530(32) (McKinney Supp. 1994) by reason of his failing to maintain a record for each

patient which accurately reflects the evaluation and treatment of each patient in that Petitioner charges:

13. The facts in Paragraph A and A.1, A.2, A.3, A.4, and/or A.8.
14. The facts in Paragraph B and B.1, B.2, B.3, and/or B.7.
15. The Facts in Paragraph C and C.1, C.2, C.3, and/or C.5.
16. The facts in Paragraph D and D.1, D.2, D.3, and/or D.6.
17. The facts in Paragraph E and E.1, E.2, E.3, and/or E.6.

DATED: Albany, New York
August 29, 1994

Peter D. Van Buren
PETER D. VAN BUREN
Deputy Counsel