

Public

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

BPMC No. 14-35

IN THE MATTER

OF

SERGEY GABINSKY, M.D.
CO-13-09-4868-A

COMMISSIONER'S
ORDER
AND
NOTICE OF
REFERRAL
PROCEEDING

TO: Sergey Gabinsky, #66604-054
FCI Otisville
PO Box 1000
Otisville, NY 10963

The undersigned, Nirav R. Shah, M.D., M.P.H., Commissioner of Health, pursuant to New York 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 **SERGEY GABINSKY, M.D.**, Respondent, New York license number 199910, has pleaded guilty to committing an act constituting a felony under federal law; as is more fully set forth in the Statement of Charges attached hereto, and made a part hereof.

It is, therefore:

ORDERED, pursuant to New York Public Health Law §230(12)(b), that effective immediately, **SERGEY GABINSKY, M.D.**, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is predicated on a valid New York State license to practice medicine.

ANY PRACTICE OF MEDICINE IN VIOLATION OF THIS COMMISSIONER'S ORDER SHALL CONSTITUTE PROFESSIONAL MISCONDUCT WITHIN THE MEANING OF NEW YORK EDUCATION LAW §6530(29) AND MAY CONSTITUTE UNAUTHORIZED MEDICAL PRACTICE, A FELONY, DEFINED BY NEW YORK EDUCATION LAW §6512.

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of New York Public Health Law §230 and New York State Administrative Procedure 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 the 23rd day of April, 2014, at 10:30 a.m., at Riverview Center, 150 Broadway, Suite 510, Albany, New York 12204-2719, at the offices of the New York State Health Department and at such other adjourned dates, times, and places as the committee may direct. Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, that is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. Respondent shall appear in person at the hearing and may be represented by counsel who shall be an attorney admitted to practice in New York state. Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents, and to cross-examine witnesses and examine evidence produced against him. The licensee may file a brief and affidavits with the Committee on Professional Conduct. A summary of the Department of Health Hearing Rules is enclosed. 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.


The hearing will proceed whether or not Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and adjournment requests are not, therefore, routinely granted. Requests for adjournments must be made in writing to the New York State Department of Health, Division of Legal Affairs, Bureau of

Adjudication, Riverview Center, 150 Broadway, Suite 510, Albany, New York 12204-2719, ATTENTION: HON. JAMES F. HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION, and by telephone (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

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 or sanction 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 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
Feb 12, 2014


NIRAV R. SHAH, M.D., M.P.H.
Commissioner of Health
New York State Department of Health

Inquiries should be addressed to:

David W. Quist
Associate Attorney
Bureau of Professional Medical Conduct
Corning Tower - Room 2512
Empire State Plaza
Albany, New York 12237
(518) 473-4282

IN THE MATTER
OF
SERGEY GABINSKY, M.D.

STATEMENT
OF
CHARGES

SERGEY GABINSKY, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 30, 1995, by the issuance of license number 199910 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 5, 2013 in the United States District Court for the Southern District of New York, Respondent pled guilty to Conspiracy to Commit Health Care Fraud (in violation of 18 USC 371), a federal felony. On or about the same date, Respondent entered into a Consent Order of Forfeiture/Money Judgment in the amount of approximately \$2,000,000, representing the amount of gross proceeds obtained as a result of the criminal activity to which Respondent pled guilty. On or about September 6, 2013, Respondent was sentenced to a term of 24-months imprisonment with a recommendation that Respondent participate in a residential alcohol treatment program, that Respondent's imprisonment be followed by supervised release for a period of three years subject to conditions, and that Respondent be required to pay a \$100 assessment and approximately \$2,000,000 in restitution.

SPECIFICATION OF CHARGES
CRIMINAL CONVICTION (Federal)

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:

- I. The facts in Paragraph A.

DATE: February 12, 2014
Albany, New York

Michael A. Hiser
Deputy Counsel
Bureau of Professional Medical Conduct