

PUBLIC

IN THE MATTER
OF
EUGENE GIALANELLA, M.D.
CO-03-04-1726-A

**COMMISSIONER'S
ORDER
AND
NOTICE OF
REFERRAL
PROCEEDING**

TO: EUGENE GIALANELLA, M.D.
156 Harbor Lane
Massapequa, NY 11762-4006

EUGENE GIALANELLA, M.D.
385 Oak Street
Garden City, NY 11530

EUGENE GIALANELLA, M.D.
Inmate No. 58295-053
Lewisburg USP
RD#5 Federal Prison
Lewisburg, PA 17837

The undersigned, Antonia C. Novello, M.D., M.P.H., Dr. P.H., Commissioner of the New York State Department of Health, after an investigation, upon the recommendation of a committee on professional medical conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached, hereto, and made a part hereof, has determined that **EUGENE GIALANELLA, M.D.**, Respondent, licensed to practice medicine in New York state on April 4, 1980, by license number 141841, has been found guilty, based on a plea of guilty, of committing acts constituting felonies under federal law in the United States District Court, Eastern District of New York.

It is therefore,

ORDERED, pursuant to N.Y. Public Health Law Section 230(12)(b), that effective immediately, **EUGENE GIALANELLA, M.D.**, Respondent, shall not practice medicine in

the State of New York or in any other jurisdiction where that practice is dependent on a valid New York State license to practice medicine. This order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to N.Y. Public Health Law Section 230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Public Health Law Section 230, and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board of Professional Medical Conduct, on the 18th day of September, 2003 at 10:00 am in the forenoon at Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180. The 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. The Respondent shall appear in person at the hearing and may be represented by counsel. The 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. 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 that 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. Respondent has the right cross-examine witnesses and examine evidence

produced against him. A summary of the Department of Health Hearing Rules is enclosed. 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.

The hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the Administrative Law Judge's Office, Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180 (518-402-0751), 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. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

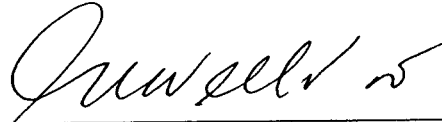
At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event that any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination 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 MAY BE FINED OR SUBJECT TO OTHER
SANCTIONS SET FORTH IN NEW YORK PUBLIC**

**HEALTH LAW SECTION 230-A. YOU ARE
URGED TO OBTAIN AN ATTORNEY FOR THIS
MATTER.**

DATED: Albany, New York

August 6, 2003



ANTONIA C. NOVELLO, M.D. M.P.H, Dr. P.H.,
Commissioner

Inquires should be addressed to:

Robert Bogan
Associate Counsel
Office of Professional Medical Conduct
433 River Street - Suite 303
Troy, New York 12180
(518) 402-0828

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STATEMENT
OF
CHARGES

EUGENE GIALANELLA, M.D., the Respondent, was authorized to practice as a Physician New York state on April 4, 1980, by the issuance of license number 141841 by the New York State Education Department.

FACTUAL ALLEGATIONS


A. On or about February 28, 2003, in the United States District Court, Eastern District of New York, Respondent was found guilty, based on a plea of guilty, of Health Care Fraud, in violation of Title 18 USC §1374, a Class C Felony, and was sentenced to six (6) months imprisonment, three (3) years supervised release upon release from imprisonment, \$250,000.00 restitution, and a \$100.00 assessment.

SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law, in that Petitioner charges:

1. The facts in Paragraph A.

DATED: *August 5*, 2003
Albany, New York


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