



COMMONWEALTH of VIRGINIA

Department of Health Professions Board of Medicine

John W. Hasty
Director of the Department

William L. Harp, M.D.
Executive Director of the Board

Gene A. Germano, M.D.
3338-2L Circlebrook Drive, SW
Roanoke, Virginia 24014

April 25, 2000

6606 West Broad Street
4th Floor
Richmond, Virginia 23230-1717
(804) 662-9908
FAX (804) 662-9517

CERTIFIED MAIL
Z 057 542 358

RE: Application for Licensure

Dear Dr. Germano:

In accordance with Sections 54.1-110, 54.1-2400 and 9-6.14:12 of the Code of Virginia (1950), as amended ("Code"), you are hereby given notice that the Virginia Board of Medicine ("Board") will convene a formal administrative hearing to consider your Application to Practice Medicine and Osteopathy in the Commonwealth of Virginia. In considering this application, the Board will receive information which may indicate that grounds exist for the denial of your application in that you may be in violation of certain laws governing the practice of medicine in Virginia, as set forth in the attached Statement of Particulars.

The formal administrative hearing will be held in accordance with the provisions of Sections 54.1-2400(11) and 9-6.14:14.1F of the Code, before a panel of the Board, with a member of the Board presiding. You have been scheduled to appear before the Board on **Thursday, June 8, 2000, at 1:00 p.m., in the offices of the Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.** A map is enclosed for your convenience. Your presence is required thirty (30) minutes in advance of the appointed time. Please report to the 4th floor receptionist, who will direct you to a waiting room. Please be seated in the waiting room and you will be called when the Board is ready to meet with you.

You have the following rights, among others: to be represented by legal counsel, to have witnesses subpoenaed on your behalf, to present documentary evidence and to cross-examine adverse witnesses. Should you wish to subpoena witnesses, requests for subpoenas must be made in writing in accordance with the enclosed Instructions for Requesting Subpoenas.

Should you or Senior Legal Assistant Lorraine McGehee wish to make prehearing motions, each of you is directed to file motions in writing, addressed to me at the Board office, at least ten (10) business days prior to this hearing. You have the right to the information which will be used by the Board in reaching a decision regarding this matter; therefore, I enclose Commonwealth's Exhibits 1-5 and Respondent's Exhibit A for your review. Please note that these documents are enclosed only with the original notice sent by certified mail, and must be claimed at the post office. If you have any questions or objections regarding the content of this package, you should contact Lorraine McGehee, Senior Legal Assistant, at (804) 662-7440. If you have not raised any objections by May 9, 2000, these exhibits will be distributed to the Board members for their review prior to your hearing, and will be considered by the Board as evidence when it deliberates upon your case. Further, to facilitate this hearing, the Board requests that you provide to Ms. McGehee, Senior Legal Assistant, Department of Health Professions, 6606 West Broad Street, 4th floor, Richmond, Virginia 23230, fifteen (15) copies of any documents you intend to introduce into evidence at least (10) business days before the hearing.

April 25, 2000

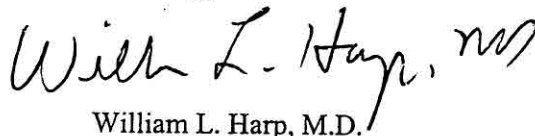
Page 2

Since you have been noticed of an alleged violation of Section 54.1-2914.A(9) of the Code, enclosed in these documents are specific Opinions from the Code of Medical Ethics of the American Medical Association. The Board may consider these Opinions when determining whether you have maintained an appropriate standard of ethics in the practice of medicine.

Absent good cause shown to support a request for a continuance, the formal administrative hearing will be held on June 8, 2000. A request to continue this proceeding must state **in detail** the reason for the request and must establish good cause. Such request must be made in writing to me at the address listed on this letter and must be received by 5:00 p.m. on May 9, 2000. Only one such motion will be considered. Absent exigent circumstances, such as personal or family illness, a request for a continuance after May 9, 2000, will not be considered.

Please indicate, by letter to this office, your intention to be present.

Sincerely,



William L. Harp, M.D.
Executive Director
Virginia Board of Medicine

WLH:fd0425N2.fahnot.germano
LM/Germano20NFH.doc

cc: Joseph A. Leming, M.D., President, Virginia Board of Medicine
John W. Hasty, Director, Department of Health Professions
James L. Banning, Director, Administrative Proceedings Division
Lorraine McGehee, Senior Legal Assistant
Sam Garrison, Esquire (with enclosures)
Renee S. Dixon, Discipline Case Manager (76320)
Senior Administrative Assistant, Board of Medicine
Senior Administrative Assistant, APD

Enclosures:

Statement of Particulars

Virginia Code Sections:

54.1-105

54.1-110

54.1-111

54.1-2400

54.1-2914

54.1-2915

54.1-2916

9-6.14:12

9-6.14:14.1F

Instructions for Requesting Subpoenas

Commonwealth's Exhibits 1 – 5

Respondent's Exhibit A

Map

VIRGINIA:

BEFORE THE BOARD OF MEDICINE

IN RE: GENE ANDREW GERMANO, M.D.

STATEMENT OF PARTICULARS

The Virginia Board of Medicine ("Board") alleges that grounds exist for the denial of the Application for a License to Practice Medicine/Osteopathy ("Application") of Gene A. Germano, M.D., in that Dr. Germano may be in violation of Section 54.1-111.A(4), (6), (8), Section 54.1-2915.A(1), (5), (3), as further defined in Section 54.1-2914.A(3), (7), (9), (11), (13), (14), (15), and Sections 54.1-2916.A(1) and 54.1-2916.B of the Code of Virginia (1950), as amended. Specifically:

1. From June 23, 1996 through December 31, 1996, Dr. Germano was a member of the training program at MetroHealth Medical Center, Case Western University, Cleveland, Ohio. Michael McFarlane, M.D., Internal Medicine Residency Program Director at MetroHealth, submitted an Activity Questionnaire and accompanying letter to the Board wherein he stated that Dr. Germano was "... relieved of [his] duties on December 31, 1996," and rated Dr. Germano's performance poor to fair, with the recommendation that he not be licensed. Dr. McFarlane further explained that Dr. Germano had difficulties with the stresses and rigors of internship, had difficulty with prioritizing problems, and had difficulty with physician/patient interactions. For these reasons, Dr. Germano was "... referred for professional assistance for his illness."

2. By his own admission, when Dr. Germano was discharged from the training program at MetroHealth in 1996, he took with him a prescription pad and other items from the clinic. According to O. T. Dilullo, Investigator with the Mahoning Valley Law Enforcement Task Force in Ohio, Dr. Germano wrote prescriptions for his personal and unauthorized use for Prednisone on two occasions, Minocycline on one occasion, Indomethacin on one occasion, Prozac on one occasion, and Cylert on two occasions using prescription blanks from MetroHealth.

3. On September 5, 1997, in the Court of Common Pleas, Trumbull County, Ohio, Dr. Germano entered a plea of guilty to the crime of attempted illegal processing of drug documents. By Order dated January 29, 1998, Dr. Germano was sentenced to incarceration for six months, which was suspended, required to pay the cost of court, and placed on probation for two years commencing January 29, 1998. This action was based on Dr. Germano's admission that he wrote a prescription for Cylert in his own name using a prescription pad that was the property of MetroHealth

4. On April 13, 1998, the Court of Common Pleas issued an Amended Journal Entry terminating Dr. Germano's probation for just cause shown and on the recommendation of the probation department.

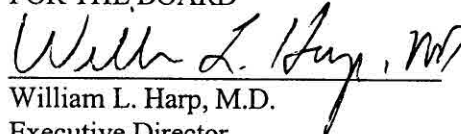
5. By Application for a License to Practice Medicine/Osteopathy in Virginia dated July 27, 1999, Dr. Germano made false statements and representations to the Board when he answered "no" to the following questions:

- a. Question #8 which states, "Have you ever been convicted of a violation of/or pled Nolo Contendere to any federal, state, or local statute, regulation or ordinance, or entered into any plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except convictions for driving under the influence.)"
- b. Question #9 which states, "Have you ever voluntarily surrendered your clinical privileges while under investigation, been censured or warned, or requested to withdraw from the staff of any medical school, residency or fellowship training, hospital, nursing home, or other health care facility, or health care provider?"

6. On his Virginia application, Dr. Germano failed to list all professional and non-professional activities or employment for more than three months between his internship at MetroHealth, which ended December 31, 1996, and his residency at Roanoke-Salem Psychiatric Medical Program, which he indicated commenced in June 1998.

7. By Dr. Germano's own admission, in or about late 1999 or early 2000, he was arrested on a charge of prostitution or soliciting prostitution.

FOR THE BOARD



William L. Harp, M.D.

Executive Director

Virginia Board of Medicine

DATE: 4/25/2000

VIRGINIA:

BEFORE THE BOARD OF MEDICINE

IN RE: GENE ANDREW GERMANO, M.D.
Application for Licensure

ORDER

In accordance with the provisions of Sections 54.1-110 and 9-6.14:12 of the Code of Virginia (1950), as amended ("Code"), a formal administrative hearing was convened before the Virginia Board of Medicine ("Board"), on June 8, 2000, in Richmond, Virginia, to consider Dr. Germano's Application for a License to Practice Medicine/Osteopathy in the Commonwealth of Virginia.

Pursuant to Sections 9-6.14:14.1F and 54.1-2400(11) of the Code, the hearing was held before a panel of the Board with a member of the Board presiding. The proceedings were recorded by a certified court reporter. The case was presented by Lorraine McGehee, Senior Legal Assistant, Department of Health Professions. Roscoe C. Roberts, Assistant Attorney General, was present as legal counsel for the Board. Dr. Germano appeared at the formal administrative hearing and was represented by legal counsel, Sam Garrison, Esquire.

FINDINGS OF FACT

Now, having properly considered the evidence and testimony presented, the Board finds the following facts by clear and convincing evidence:

1. From June 23, 1996, through December 31, 1996, Dr. Germano was a member of the training program at MetroHealth Medical Center, Case Western University, Cleveland, Ohio. Michael McFarlane, M.D., Internal Medicine Residency Program Director at MetroHealth, submitted an Activity Questionnaire and accompanying letter to the Board wherein he stated that Dr. Germano was "... relieved of [his] duties on December 31, 1996," and rated Dr. Germano's performance poor to fair, with the recommendation that he not be licensed. Dr. McFarlane further explained that Dr. Germano had difficulties with the stresses and
-

rigors of internship, had difficulty with prioritizing problems, and had difficulty with physician/patient interactions. For these reasons, Dr. Germano was “. . . referred for professional assistance for his illness.”

2. By his own admission, when Dr. Germano was discharged from the training program at MetroHealth in 1996, he took with him a prescription pad and other items from the clinic. According to O. T. Dilullo, Investigator with the Mahoning Valley Law Enforcement Task Force in Ohio, Dr. Germano wrote prescriptions for his personal and unauthorized use for Prednisone on two occasions, Minocycline on one occasion, Indomethacin on one occasion, Prozac on one occasion, and Cylert on two occasions using prescription blanks from MetroHealth.

3. On September 5, 1997, in the Court of Common Pleas, Trumbull County, Ohio, Dr. Germano entered a plea of guilty to the crime of attempted illegal processing of drug documents. By Order dated January 29, 1998, Dr. Germano was sentenced to incarceration for six months, which was suspended, required to pay the cost of court, and placed on probation for two years commencing January 29, 1998. This action was based on Dr. Germano's admission that he wrote a prescription for Cylert in his own name using a prescription pad that was the property of MetroHealth.

4. On April 13, 1998, the Court of Common Pleas issued an Amended Journal Entry terminating Dr. Germano's probation for just cause shown and on the recommendation of the probation department.

5. By Application for a License to Practice Medicine/Osteopathy in Virginia dated July 27, 1999, Dr. Germano made false statements and representations to the Board when he answered “no” to the following questions:

- a. Question #8 which states, “Have you ever been convicted of a violation of/or pled Nolo Contendere to any federal, state, or local statute, regulation or ordinance, or entered into any plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except convictions for driving under the influence.)”

- b. Question #9 which states, "Have you ever voluntarily surrendered your clinical privileges while under investigation, been censured or warned, or requested to withdraw from the staff of any medical school, residency or fellowship training, hospital, nursing home, or other health care facility, or health care provider?"

6. On his Virginia application, Dr. Germano failed to list all professional and non-professional activities or employment for more than three months between his internship at MetroHealth, which ended December 31, 1996, and his residency at Roanoke-Salem Psychiatric Medical Program, which he indicated commenced in June 1998.

7. By Dr. Germano's own admission, in or about late 1999 or early 2000, he was arrested on a charge of solicitation of prostitution. Dr. Germano testified that on March 14, 2000, the charges were dismissed and taken under advisement for one (1) year.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board concludes that Dr. Germano is in violation of Section 54.1-111.A(6) and (8), Section 54.1-2915.A(1) and (3), as further defined in Section 54.1-2914.A(3), (7), (9), (13), (14), (15), and Sections 54.1-2916.A(1) and 54.1-2916.B of the Code.

ORDER

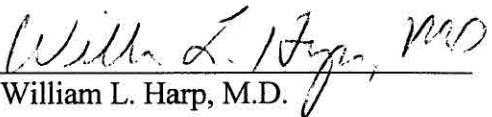
WHEREFORE, it is ORDERED that the Application for a License to Practice Medicine/Osteopathy in the Commonwealth of Virginia dated July 27, 1999, submitted by Gene Andrew Germano, M.D., be, and hereby is, DENIED.

As provided by Rule 2A:2 of the Supreme Court of Virginia, Dr. Germano has thirty (30) days from the date of service (the date he actually received this decision or the date it was mailed to him, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with William L. Harp, M.D., Executive Director, Board of Medicine, at 6606 West Broad St., Richmond, Virginia 23230. In the event that this

decision is served by mail, three (3) days are added to that period.

Pursuant to Section 9-6.14:14 of the Code, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

FOR THE BOARD



William L. Harp, M.D.

Executive Director
Virginia Board of Medicine

ENTERED: 6/14/2000



COMMONWEALTH of VIRGINIA

Sandra Whitley Ryals
Director

Department of Health Professions
6603 West Broad Street, 5th Floor
Richmond, Virginia 23230-1712

www.dhp.virginia.gov
TEL (804) 662 9900
FAX (804) 662 9943
TDD (804) 662 7197

January 19, 2007

Gene Andrew Germano, M.D.
1109 E. Chelsea Street
Tampa, Florida 33603

Certified Article Number

7160 3901 9848 8723 6992

SENDERS RECORD

RE: Application for Licensure

Dear Dr. Germano:

This letter is official notification that an informal conference of the Virginia Board of Medicine will be held on February 22, 2007, at 1:00 p.m., at 6603 West Broad Street, Fifth Floor, Richmond, Virginia. In accordance with §§ 2.2-4019 and 2.2-4021 of the Code of Virginia (1950), as amended ("Code"), this informal conference will be held before the Credentials Committee of the Virginia Board of Medicine ("Committee"). This informal conference will be convened as a public meeting pursuant to § 2.2-3700 *et seq.* of the Code. The burden rests upon you, as the applicant, to demonstrate that you are safe and competent to practice medicine and surgery in Virginia.

In considering your Application for a License to Practice Medicine and Surgery ("Application"), the Committee will act upon evidence that grounds may exist to refuse to issue you a license. Specifically:

1. You may be in violation of Section 54.1-2915.A(1) [formerly Section 54.1-2915(1)] of the Code, in that, on or about April 24, 2003, the Court of Common Pleas in Franklin County, Ohio affirmed a judgment entered against you by the State Medical Board of Ohio on October 9, 2002, permanently denying your application for a license to practice medicine in Ohio due to fraudulent information on your application in that jurisdiction.

2. You may be in violation of Section 54.1-2915.A(14) [formerly Section 54.1-2914.A(9)] of the Code, in that you may be unable to practice medicine with reasonable skill and/or safety due to illness and/or substance abuse.

3. You may be in violation of Section 54.1-2915(A)(4) of the Code in that you may no be able to practice medicine with safety to your patients by reason of incompetence as demonstrated by, but not limited to, the fact that you have not practiced medicine since 2001.

After consideration of all information, the Committee may:

1. Approve your Application;
2. Recommend to the Board that you be licensed and that you be issued a reprimand, placed on probation or otherwise be subject to terms and conditions and/or assessed a monetary penalty.
3. Recommend findings of fact and conclusions of law that your application be denied.
4. Refer the matter to a formal administrative hearing before the Board.

Board's Review of the Credentials Committee's Recommended Decision

If you appear in person or by counsel at the informal conference, the recommendation of the Credentials Committee will be presented to a quorum of the Board. The Board may accept or modify the recommendation, or reject the recommendation and move the case to formal hearing. If you do not agree with the decision of the Board, you have the right to a formal administrative hearing before the Board.

If you fail to appear in person or by counsel at the informal conference, the recommendation of the Credentials Committee will be presented to a quorum of the Board. The Board may accept or modify the recommendation, or reject the recommendation. The Board's decision regarding the Credentials Committee's recommendation is a final order that can only be appealed to circuit court as provided by Rule 2A:2 of the Supreme Court of Virginia.

You have the right to information that will be relied upon by the Credentials Committee in making a decision. Therefore, I enclose a copy of the documents that will be distributed to the Committee, and will be considered when discussing your application with you and when deliberating upon your case. **These documents are enclosed only with the original notice sent by certified mail, and must be claimed at the post office.** Further, if you retain counsel, it is your responsibility to provide the enclosed materials to your attorney.

To facilitate this proceeding, you should submit 10 copies of any documents you wish for the Committee to Colanthia Morton Opher, Operations Manager, Virginia Board of Medicine, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1717, by February 8, 2007. Your documents may not be submitted by facsimile or e-mail.

You may be represented by an attorney at the informal conference. If you obtain counsel, you should do so as soon as possible, because absent good cause to support a request for a continuance, the informal conference will be held on February 22, 2007. A request to continue this proceeding must state **in detail** the reason for the request and must establish good cause. Such request must be made, in writing, to me at the address listed on this letter and must be received by 12 noon on February 21, 2007. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after February 21, 2007 will not be considered.

Should you decide to withdraw your application, you may do so at any time prior to the credentials committee reaches its recommended decision.

If the Board denies your application for licensure, the Department of Health Professions may be required to report that denial to the National Practitioner Data Bank, the Healthcare Integrity and Protection Data Bank, the Federation of State Medical Boards and other applicable reporting entities.

Relevant sections of the Administrative Process Act, which govern proceedings of this nature, as well as laws relating to the practice of medicine and other healing arts in Virginia cited in this notice can be found on the Internet at <http://leg1.state.va.us>. To access this information, please click on the *Code of Virginia* for statutes and *Virginia Administrative Code* for regulations.

Please advise the Board, in writing, of your intention to be present. If you have any questions regarding this notice, please contact Leigh C. Kiczales, Adjudication Specialist at (804) 662-7677.

Sincerely,



William L. Harp, M.D.
Executive Director
Virginia Board of Medicine

Enclosures:

Informal Conference Package (155 pages)
Map

Cc: Sandra W. Ryals, Director, DHP
Amy Marschean, Assistant Attorney General (*with enclosures*)
M. Ola Powers, Deputy Executive Director, Licensing
Lorraine McGehee, Deputy Director, Administrative Proceedings Division
Leigh C. Kiczales, Adjudication Specialist, APD
Colanthia M. Opher, Operations Manager, Licensing (#108365)
Patrick C. Devine, Esquire
Amanda L. Kutz, Esquire

VIRGINIA:

BEFORE THE BOARD OF MEDICINE

IN RE: GENE A. GERMANO, M.D.
Applicant for Licensure

ORDER

In accordance with Sections 2.2-4019 and 2.2-4021 of the Code of Virginia (1950), as amended ("Code"), an informal conference was held with Gene A. Germano, M.D., on February 22, 2007, in Richmond, Virginia. Members of the Virginia Board of Medicine ("Board") serving on the Credentials Committee ("Committee") were: Jane E. Piness, M.D., Chair; Robert T. Mosby, Jr., M.D.; Karen A. Ransone, M.D.; and Ellen Shapiro, D.P.M. Dr. Germano appeared personally and was represented by Amanda L. Kutz, Esquire and Patrick C. Devine, Jr., Esquire. Allison Tysinger, Assistant Attorney General, was present as counsel to the Board. Carolyn R. McKann, Adjudication Specialist, was present as a representative for the Administrative Proceedings Division of the Department of Health Professions. The purpose of the informal conference was to consider Dr. Germano's Application for a License to Practice Medicine and Surgery in Virginia ("Application"), and in considering the application, to receive and act upon evidence that grounds may exist to deny Dr. Germano a license to practice medicine and surgery in the Commonwealth of Virginia. These matters are set forth in a Notice of Informal Conference dated January 19, 2007.

FINDINGS OF FACT

Now, having properly considered the evidence and statements presented, the Committee makes the following Findings of Fact:

1. By Application dated February 27, 2006, Gene A. Germano, M.D., applied for licensure to practice medicine and surgery in the Commonwealth of Virginia.
2. On October 9, 2002, the State Medical Board of Ohio entered a judgment against Dr.

Germano, permanently denying his application for a license to practice medicine in that jurisdiction as a result of fraudulent information provided on his application. The judgment was upheld by the Court of Common Pleas in Franklin County, Ohio on April 24, 2003.

3. Dr. Germano acknowledged to the Committee that he had made mistakes in judgment in the past, was embarrassed by those mistakes, and assured the Committee that they would not occur in the future.

4. Dr. Germano submitted multiple letters from friends and acquaintances in support of his character and integrity.

5. Timothy M. McRae, M.D., Dr. Germano's treating psychiatrist, spoke to the Committee by telephone, and stated that he believes that Dr. Germano is fit to return to the practice of medicine.

6. Dr. Germano has completed 61.25 hours of Category I continuing medical education credits, 17 hours of which were through interactive courses.

7. Dr. Germano indicated to the Committee that he primarily uses the Internet to educate himself on medical matters.

8. Dr. Germano presented the Committee with a proposal to volunteer at Cross Over Ministry, a free medical clinic in Richmond, Virginia, with an offer from the medical director to supervise Dr. Germano's work.

CONCLUSIONS OF LAW

This matter is properly before the Committee for consideration.

ORDER

WHEREFORE, based on the above Findings of Fact and Conclusions of Law, it is hereby ORDERED upon satisfaction of the following requirements outlined below, Dr. Germano's Application for a License to Practice Medicine and Surgery in the Commonwealth of Virginia shall be GRANTED:

1. Within six (6) months of entry of this Order, Dr. Germano shall successfully complete forty (40) hours of Category I continuing education ("CE") in the area of primary care. Said course shall be approved in advance of registration by the Executive Director of the Board. Within two weeks of completion of the CE, Dr. Germano shall submit a certificate or other evidence, satisfactory to the Board, of completion of the CE required by this Order.

2. Within six (6) months of entry of this Order, Dr. Germano shall take and pass the Special Purpose Examination ("SPEX") administered by the Federation of State Medical Boards of the United States, Inc., and ensure that the Board receives the results of the examination.

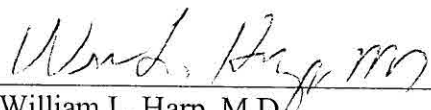
3. Prior to the issuance of his medical license, Dr. Germano shall remit all fees associated with activating the license for the current biennium.

Pursuant to Section 54.1-2400.2 of the Code, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

Pursuant to Section 54.1-2400(10) of the Code, Dr. Germano may, not later than 5:00 p.m., on April 4, 2007, notify William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Richmond, Virginia 23230, in writing that he desires a formal administrative hearing before the Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated.

Therefore, this Order shall become final on April 4, 2007, unless a request for a formal administrative hearing is received as described above.

FOR THE BOARD



William L. Harp, M.D.
Executive Director
Virginia Board of Medicine

Entered: 3/6/07