

Public

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

IN THE MATTER
OF
GERARDO ASDRUBAL YANAYACO, M.D.
CO-07-11-6621-A

COMMISSIONER'S
ORDER
AND
NOTICE OF
REFERRAL
PROCEEDING

TO: GERARDO ASDRUBAL YANAYACO, M.D.
40-37 81ST St.
Elmhurst, NY 11373

GERARDO ASDRUBAL YANAYACO, M.D.

Redacted Address

The undersigned, Richard F. Daines, M.D., 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 **GERARDO YANAYACO, M.D.**, Respondent, licensed to practice medicine in the State of New York on May 4, 1999, by license number 213859, has pleaded or been found guilty or convicted of committing an act constituting a felony under New York State law, federal law, or the law of another jurisdiction which, if committed within this state, would have constituted a felony under New York State 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), effective immediately **GERARDO YANAYACO, M.D.**, Respondent, 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 THE STATE OF NEW YORK 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 20th day of November 2008, at 10:00 a.m., at Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180, 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, which 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. 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. 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, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. JAMES 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. This 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
4/30/2008

Redacted Signature

~~RICHARD F. DAINES, M.D.~~
Commissioner of Health
New York State Department of Health

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

IN THE MATTER
OF
GERARDO ASDRUBAL YANAYACO, M.D.
CO-07-11-6621-A

STATEMENT
OF
CHARGES

GERARDO ASDRUBAL YANAYACO, M.D., Respondent, was authorized to practice medicine in New York state on May 4, 1999, by the issuance of license number 213859 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about November 9, 2007, in the Supreme Court of the State of New York, New York County, New York, Respondent was convicted of insurance fraud in the third degree, in violation of New York Penal Law §176.20, a class D felony; grand larceny in the third degree, in violation of New York State Penal Law §155.35, a class D felony; offering a false instrument for filing in the first degree, in violation of New York State Penal Law §175.35, a class E felony; falsifying a business record in the first degree, in violation of New York State Penal Law §175.10, a class E felony; and scheme to defraud, in the first degree, in violation of New York State Penal Law §190.65(1), a class E felony; and on or about February 11, 2008, was sentenced to ten (10) months imprisonment on each count, a \$20.00 CVAF, and a \$250.00 surcharge.

SPECIFICATION

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

1. The facts in Paragraph A.

DATED: *Sept. 30*, 2008
Albany, New York

Redacted Signature

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