

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

IN THE MATTER
OF
GINO NICHOLAS VITIELLO, M.D.

RECISSION OF
COMMISSIONER'S
SUMMARY
ORDER

TO: Gino Nicholas Vitiello, M.D.
9299 SW 152nd Street, Suite 202
Palmetto Bay, FL 33157

The undersigned, Howard A. Zucker, M.D., J.D., Acting Commissioner of Health, pursuant to New York Public Health Law §230, upon consideration of the Notice of Dismissal issued by the Department of Health of the State of Florida, dated December 22, 2014, for case No. 2013-18659, lifting the Order of Emergency Restriction of License previously issued against Respondent by the Department of Health of the State of Florida after determining that there was insufficient evidence to support the prosecutions of the allegations contained therein, has therefore determined that there no longer exists good cause for continuance of the Commissioner's Summary Order issued on September 16, 2014 against **GINO NICHOLAS VITIELLO, M.D.**, Respondent, New York license number 183332 and

It is therefore:

ORDERED, that, effective immediately, the Commissioner's Summary Order for **GINO NICHOLAS VITIELLO, M.D.** shall be rescinded, and Respondent's license to practice medicine in the State of New York shall be fully restored.

DATED: Albany, New York

12 January , 2015

Howard A. Zucker, M.D., J.D.
Acting Commissioner of Health
New York State Health Department

STATE OF FLORIDA
DEPARTMENT OF HEALTH

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: REDACTED

DEPARTMENT OF HEALTH,

DATE 12-23-2014

PETITIONER,

v.

CASE NO. 2013-18659

GINO NICHOLAS VITIELLO, M.D.,

RESPONDENT.

NOTICE OF DISMISSAL

Petitioner, Department of Health ("Department"), by and through its undersigned counsel, files this Notice of Dismissal and states as follows:

1. Pursuant to Section 456.073(2), Florida Statutes (2014), at any time after legal sufficiency is found, the Department may dismiss a case if it determines that there is insufficient evidence to support the prosecution of the allegations contained therein.

2. Subsequent to a finding of probable cause in the above-styled case, the Department determined it lacked sufficient, admissible evidence to support the prosecution of the case.

3. On December 15, 2014, after sufficient public notice, the Department notified the Probable Cause panel for the Board of Medicine ("Panel") that it intended to dismiss this case.

4. The Department is notifying the Agency Clerk of the closure such that it may lift the currently pending Emergency Restriction Order against Respondent.

12/22/14
[REDACTED]
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STATE OF FLORIDA
DEPARTMENT OF HEALTH

BOARD: Medicine
CASE NUMBER: 2013-18659
RESPONDENT: Gino Nicholas Vitiello, M.D.
9299 SW 152nd Street, #202
Palmetto Bay, FL 33157
DATE OF COMPLAINT: February 25, 2014

REPORT OF DISMISSAL BY DEPARTMENT

THE FACTS: Complainant alleges Subject violated Section 458.331(1)(s), Florida Statutes (2013), by being unable to practice medicine with reasonable skill and safety to patients due to one or more of the following: (a) cognitive disorder, not otherwise specified; (b) alcohol dependence; (c) impulse control disorder, not otherwise specified; and/or (d) unassessed and untreated severe mental illness including cognitive impairment.

On or about November 11, 2013, Respondent underwent a PRN facilitated evaluation and received diagnoses of: [REDACTED]

[REDACTED] The evaluator opined that Respondent is not capable of practicing medicine with reasonable skill and safety. As a result, the Department filed an Emergency Restriction Order against Respondent that immediately restricted him from practicing medicine until PRN notifies the Department that Dr. Vitiello is safe to resume practice.

On February 21, 2014, this Complaint was considered by the Probable Cause Panel and an Administrative Complaint was filed on February 25, 2014. Subsequent to the Administrative Complaint being filed with the

Agency Clerk, Subject elected to have a formal hearing at the Division of Administrative Hearings.

On April 15, 2014, Respondent's attorney informed Petitioner that Respondent entered into residential treatment on or about March 21, 2014 at the direction of PRN. On September 19, 2014, PRN sent Petitioner a letter stating that Subject established a monitoring contract on August 17, 2014 and is in compliance with all PRN requirements. This is Respondent's first executed PRN monitoring contract.

Given that the Administrative Complaint alleges only impairment and the Respondent is an active, compliant PRN participant, the requirements of Section 456.076(4)(a), Florida Statutes, have been satisfied and the Administrative Complaint shall not constitute grounds for discipline.

Based on the foregoing, the Department hereby dismisses the Administrative Complaint charging Section 458.331(1)(s), Florida Statutes (2013).

THE LAW: Pursuant to Section 456.073(2), Florida Statutes, the Department finds that there is insufficient evidence to support the prosecution of Section 458.331(1)(s), Florida Statutes (2013).

DONE this 15th day of October, 2014.



Daniel Hernández
Deputy General Counsel