

BEFORE THE
LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

In The Matter of:

RICHARD GENE GAYNOR, M.D.
(Certificate No. 015433)

NO. 90-I-093

CONSENT ORDER

An investigation conducted on behalf of the Louisiana State Board of Medical Examiners (the "Board") developed apparently reliable information indicating that Richard Gene Gaynor, M.D. ("Dr. Gaynor"), a physician licensed to practice medicine in the state of Louisiana and actively engaged in the practice of internal medicine in the Baton Rouge, Louisiana area, had dispensed and written and issued prescriptions for a variety of legally controlled dangerous substances, principally benzodiazepines, narcotic analgesics and hypnotics, in apparent excessive quantities and for extended periods of time to a number of patients. The investigation included an analysis of dispensation records maintained by the physician, together with Dr. Gaynor's own office records with respect to eleven patients in question. Moreover, the investigation developed information indicating that Dr. Gaynor dispensed medications directly to patients from his clinic regularly between December of 1988 and August, 1990, although he failed to register with the Board to do so.¹

In consideration for resolving this matter by consent, as evidenced by his subscription hereto, Dr. Gaynor acknowledges the substantial accuracy of the foregoing information and that such would provide the Investigating Officer with probable cause to initiate formal administrative proceedings charging him with "[p]rescribing, dispensing or, administering legally controlled substances or any dependency-inducing medication without legitimate medical justification therefore;" "[p]rofessional or medical incompetency;" and "[c]ontinuing or recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice in this state."²

Recognizing his right to have notice of the allegations and charges asserted against him, to administrative adjudication of such charges, pursuant to La. Rev.

¹ All physicians dispensing medications in the state of Louisiana are required to be registered as such by the Board. La. Adm. Code, Title 46, subpart 3 §6501 *et seq.*

² La. Rev. Stat. Ann. §§37:1285(A)(6), (12)(14) (West 1988).

Stat. §§ 49:955-58, and to a final decision rendered upon written findings of fact and conclusions of law, Dr. Gaynor, nonetheless, hereby waives his right to notice of charges and formal adjudication and, pursuant to La. Rev. Stat. §49:955(D), consents to entry of the Order set forth hereinafter. By his subscription hereto, Dr. Gaynor also hereby authorizes the Investigating Officer designated by the Board with respect hereto and/or legal counsel assisting him in connection herewith, to present this Consent Order to the Board for its consideration and to fully disclose to and discuss with the Board the nature and results of the investigation and waives any objection to such disclosures under La. Rev. Stat. §49:960. Dr. Gaynor expressly acknowledges that the disclosure of information to the Board by the Investigating Officer or his legal counsel shall be without prejudice to the Investigating Officer's authority to file a formal administrative complaint against Dr. Gaynor, or to the Board's capacity to adjudicate such complaint, should the Board decline to approve this Consent Order. It is further understood that Dr. Gaynor's signature to this Consent Order is without prejudice to his right to defend the allegations against him and is not an admission of guilt, should the Board decline to approve this Consent Order.

Based upon the information provided, accordingly, and on the recommendation of the Investigating Officer, the Board has concluded that its responsibility to ensure the health, safety and welfare of the citizens of this state, pursuant to La. Rev. Stat. §37:1261, will be effectively served by entry of the Order set forth hereinafter, by consent.

Accordingly, in consideration of the foregoing, and pursuant to the authority vested in the Board by La. Rev. Stat. §37:1285 and La. Rev. Stat. §49:955(D);

IT IS ORDERED that the license of Richard Gene Gaynor, M.D., to engage in the practice of medicine in the state of Louisiana, as evidenced by Certificate No. 015433, be, and the same is hereby, **SUSPENDED** for a period of three (3) months, effective as of September 1, 1992;

IT IS FURTHER ORDERED that the license of Dr. Gaynor, to practice medicine in the state of Louisiana shall be placed on **PROBATION** for a period of five (5) years from September 1, 1992, or until September 1, 1997; provided, however, that the resumption of Dr. Gaynor's practice of medicine in the state of Louisiana following the three (3) month period of active suspension referred to hereinabove, shall be subject to his acceptance of and strict compliance with the following terms, conditions, and restrictions:

- a) ***Dispensation of Controlled Substances - All Schedules:*** Concurrent with the Board's approval of this Consent Order, Dr. Gaynor's right, entitlement and authority to prescribe, dispense, or administer any controlled substance, which may be classified, defined, enumerated, or included in 21 C.F.R. §§1308.11-15, La. Rev. Stat. §40:964, or any substance which may hereafter be designated a controlled substance by amendment or supplementation of such regulations and statute shall

be indefinitely suspended. This prohibition shall survive the term of probation ordered herein and remain in effect so long as Dr. Gaynor shall hold any form of license or permit to practice medicine in the state of Louisiana. This prohibition shall not, however, extend to medications ordered or prescriptions written by Dr. Gaynor for institutional or hospital in-patients under the permit or license of said institution or hospital. It is the specific intent of the Board that Dr. Gaynor be permitted to order medications for hospital in-patients. Three years henceforth, on or after September 1, 1995, Dr. Gaynor may apply to the Board for relief of this condition and the Board may, although it is not required to, consider such a request and grant such relief as it deems appropriate.³

- b) ***Continuing Medical Education:*** Dr. Gaynor shall obtain not less than fifty (50) credit hours per year for each of the five (5) years of the probationary period required hereinabove through attendance at and participation in continuing medical education (CME) programs accredited by and qualifying for the Physicians' Recognition Award of the American Medical Association, and he shall obtain such award within three (3) years of the date hereof. On or before September 1, 1993 and each year thereafter during the term of probation ordered hereby, Dr. Gaynor shall cause to be submitted to the Board written certification of the CME programs and credits completed by him during the preceding twelve (12) months.
- c) ***Payment of Fine:*** Dr. Gaynor shall pay to the Board a fine in the amount of THREE THOUSAND AND NO/100 (\$3,000.00) DOLLARS, to be paid on or before December 1, 1993.
- d) ***Cooperation with the Board's Probationary Officer:*** Dr. Gaynor shall immediately notify the Board's Probation Officer of any change in his current home and professional addresses and telephone numbers. Moreover, Dr. Gaynor shall direct any and all matters required in connection with this Consent Order, including his CME credits, Physician Recognition Award, as well as the monetary fine required hereunder, to the attention of the Board's Probation Officer. Dr. Gaynor may also expect and does hereby authorize announced or unannounced visits by the Board's Probationary Officer to his office during the five (5) years of probation required hereunder and he shall cooperate with him on all matters.

³ Dr. Gaynor voluntarily surrendered his federal registration to dispense, prescribe or administer controlled substances to the United States Drug Enforcement Administration in October, 1990. Should Dr. Gaynor make a request to the Board for relief of this condition on or after September 1, 1995, he will not have held entitlement, right or authority to prescribe, dispense or administer controlled substances for a period of five (5) years.

IT IS FURTHER ORDERED that any violation of or failure of strict compliance with any of the terms, conditions and/or restrictions of this order by Dr. Gaynor shall, upon proof of such violation or failure, be deemed adequate and sufficient cause, for the revocation and cancellation of Dr. Gaynor's license to practice medicine in the state of Louisiana, or for such other disciplinary action as the Board deems appropriate, as if such violations were enumerated among the causes provided in La. Rev. Stat. §37:1285.

IT IS FURTHER ORDERED that this Consent Order shall be, and shall be deemed to be, a public record.

New Orleans, Louisiana, this 20 day of August, 1992.

LOUISIANA STATE BOARD
OF MEDICAL EXAMINERS

BY: 

BERNARD L. KAPLAN, M.D.
PRESIDENT

ACKNOWLEDGMENT AND CONSENT

I, RICHARD GENE GAYNOR, M.D., hereby acknowledge, approve, accept and consent to entry of the above and foregoing Order, this 13th day of August, 1992.


RICHARD GENE GAYNOR, M.D.

Witness:

