

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

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MEDICAL CONDUCT

November 12, 1999

Samuel Lassoff, Physician
920 Park Avenue
New York, New York 10028

Re: Application Restoration

Dear Dr. Lassoff:

Enclosed please find the Commissioner's Order regarding Case No. 99-144-60 which is in reference to Calendar No. 16886. This order and any decision contained therein goes into effect five (5) days after the date of this letter.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations

By:

GUSTAVE MARTINE
Supervisor

DJK/GM/er

The University of the State of New York
Education Department



IN THE MATTER

of the

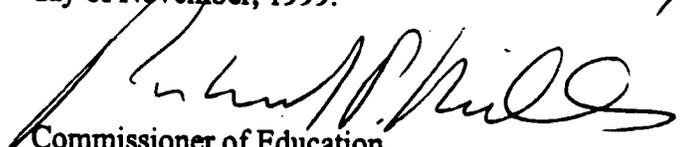
Application of SAMUEL LASSOFF
for restoration of his license to
practice as a physician in the State of
New York.

Case No. 99-144-60

It appearing that the application of SAMUEL LASSOFF, 920 Park Avenue, New York, New York 10028, to surrender his license to practice as a physician in the State of New York, was accepted by the State Board for Professional Medical Conduct on April 7, 1995, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition and having agreed with and accepted the recommendations of the Peer Review Panel and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on September 17, 1999, it is hereby

ORDERED that the petition for restoration of License No. 132660, authorizing SAMUEL LASSOFF to practice as a physician in the State of New York, is denied.

IN WITNESS WHEREOF, I, Richard P. Mills,
Commissioner of Education of the State of New York for
and on behalf of the State Education Department, do
hereunto set my hand and affix the seal of the State
Education Department, at the City of Albany, this
day of November, 1999.


Commissioner of Education

Case No. 99-144-60

It appearing that the application of SAMUEL LASSOFF, 920 Park Avenue, New York, New York 10028, to surrender his license to practice as a physician in the State of New York, was accepted by the State Board for Professional Medical Conduct on April 7, 1995, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition and having agreed with and accepted the recommendations of the Peer Review Panel and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on September 17, 1999, it was

VOTED that the petition for restoration of License No. 132660, authorizing SAMUEL LASSOFF to practice as a physician in the State of New York, be denied.

June 22, 1999

THE UNIVERSITY OF THE STATE OF NEW YORK
The State Education Department

Report of the Committee on the Professions
Application for Restoration of Physician License

Re: **Samuel Lassoff**

Attorney: Not represented by counsel.

Samuel Lassoff, 920 Park Avenue, New York, NY 10028, petitioned for restoration of his physician license. The chronology of events is as follows:

- 09/30/77 Issued license number 132660 to practice as a physician in New York State.
- 12/13/93 Entered into Voluntary Agreement with Department of Health.
- 01/00/95 Commissioner's Order summarily suspends license.
- 02/28/95 Amended charges of professional misconduct by New York State Department of Health. (See "Disciplinary History.")
- 03/08/95 Submitted Application to Surrender License.
- 04/07/95 Effective date of surrender of license.
- 12/18/96 Application for restoration submitted.
- 08/05/98 Peer Committee restoration review.
- 03/22/99 Report and recommendation of Peer Committee. (See "Recommendation of the Peer Committee.")
- 06/22/99 Report and recommendation of Committee on the Professions. (See "Report of Committee on the Professions.")

Disciplinary History. (See attached Application to Surrender License.) On December 13, 1993, Dr. Lassoff entered into a confidential Voluntary Agreement with the Department of Health after an investigation of allegations that he was dependent upon alcohol during the previous eight years. Pursuant to the agreement, Dr. Lassoff agreed to remain drug and alcohol free, submit to random drug/alcohol testing under a

professional monitor, continue therapy, and accept supervision in his practice. In January 1995, his license was summarily suspended pending amended charges of professional misconduct, filed on February 28, 1995, accusing Dr. Lassoff of practicing the profession while impaired, being a habitual user of alcohol, and having voluntarily surrendered his license after a disciplinary action was instituted against him by a duly authorized professional disciplinary agency of another state. It was alleged that Dr. Lassoff was arrested for driving while under the influence of alcohol on November 5, 1994, and was also admitted to a hospital emergency room with a primary diagnosis of alcohol abuse on or about December 20, 1994. These two incidents were used to illustrate his use of alcohol and his impaired state while the record showed he continued to see patients and practice medicine. He surrendered his license in New Jersey after that state commenced a disciplinary proceeding charging him with habitually abusing alcohol. On March 8, 1995, Dr. Lassoff applied to surrender his license to the Department of Health, claiming that he could not successfully defend against the allegations. His license was surrendered effective April 7, 1995.

On December 18, 1996, Dr. Lassoff submitted an application for restoration of his license.

Recommendation of the Peer Committee. (See attached Report of the Peer Committee.) The Peer Committee (Cournos, Gitman, Santiago) convened on August 5, 1998. In its report dated March 22, 1999, the Committee recommended unanimously to deny Dr. Lassoff's application for restoration.

Recommendation of the Committee on the Professions. On June 22, 1999, the Committee on the Professions met with Dr. Samuel Lassoff to consider his application for the restoration of his license as a physician in New York State. An attorney did not accompany him.

The Committee asked Dr. Lassoff to explain why he lost his license. He responded that he was required to participate in the Committee on Physicians' Health (CPH) to deal with his alcoholism in 1993, and stayed with the program until he was detained for Driving While Intoxicated in November 1995. He expressed his concern that the program cost him approximately \$18,000-\$19,000 during that two-year period. Dr. Lassoff stated that he was not happy in the program and that he found the program "frustrating" because he did not like giving urine for testing, disliked meeting with a psychiatrist and thought the program was "expensive and insincere". He said he participated in the program because he "felt coerced." Dr. Lassoff told the Committee that he regretted the role alcohol played in his life because he had worked so hard and also regretted what happened, but said, "it just happened."

Dr. Lassoff indicated that he thought he started drinking around 1982 while moonlighting at Kings County Hospital and didn't know he was an alcoholic because it was subtle and just seemed to escalate over time. He reported that he had problems with his mouth and was using Scope profusely and said it must have contained some

alcohol. He stated, "I realized I was a drunk about two years before [entering the CPH program]."

Dr. Lassoﬀ said he has been participating in Alcoholics Anonymous for three years and attended 5-6 meetings a week since he didn't work. He said that Alcoholics Anonymous teaches you to be honest and he believes that honesty is important. However, he told the Committee that has not taken urine tests since leaving the CPH program and is unable to prove sobriety. He stated, "If I had my license, I would be willing to go back to the program and be monitored. I changed at the end of it. I didn't like [monitoring] because I felt constrained and didn't like feeling like I was in kindergarten." Dr. Lassoﬀ stated, "I am not in denial whatsoever. I am a recovering alcoholic. I understand my disease very well. I accept it."

The Committee asked if he felt he ever hurt a patient. Dr. Lassoﬀ replied, "If a patient was harmed, it would have been referred to me. No one was harmed." The Committee asked if he felt he treated patients adequately while he was impaired (this included treating patients in the emergency room while under the influence of alcohol). He replied that he felt he provided adequate care, even while impaired.

Dr. Lassoﬀ asked if he could talk about concerns he had with the Peer Committee Report and presented the Committee with a written list of concerns. They began with a letter from the Department incorrectly naming him "Paul" Lassoﬀ, M.D. Then he listed concerns in the Report of the Peer Committee. He contested the statement on page one that he was dependent upon "drugs and alcohol" during various periods over eight years. Dr. Lassoﬀ stressed that he was never dependent on "drugs," only "alcohol." Dr. Lassoﬀ also said that the comments on page six about his leaving the treatment program to join Alcoholics Anonymous were inaccurate. He indicated that he just said he was unhappy. He wanted the Committee on the Professions to know that he did not voluntarily seek any assistance from colleagues, as indicated on page eight, and only joined the Committee on Physician's Health at the insistence of the Chairman of Neurology. Dr. Lassoﬀ told the Committee on the Professions that he was in terrible condition financially although on page nine the Peer Committee mentioned his "improved financial condition". Regarding the comments on page 11, he said that he knew that he was not inferior to other physicians but that he felt inferior without his license. He added that the comments on page twelve were misleading because he only pursued commodity trading as a means to earn money. Regarding the rationale presented on pages twelve through fourteen, Dr. Lassoﬀ stressed to the Committee on the Professions that he had "complete insight" into his alcoholism and that the Peer Committee's "accusation that I have no insight into my disease is false." He stated that his mindset is completely "aware of my disease". Finally, Dr. Lassoﬀ was concerned with some of the language in the Peer Committee report and took offense to the term "ludicrous" used on page fifteen of the report.

Dr. Lassoﬀ told the Committee that he loves research and has an interest in neuro-oncology. He expressed that he is willing to do "anything" to have his license back. He said that he did not like the CPH program, but he would be willing to re-enter

the program and be monitored to get his license back. Dr. Lassoff said that he thinks these steps would not help him "cure" his alcoholism, but he would do anything to get his license back. He said, "I'd rather be cured than have my license. But, I want my license." The Committee noted that Dr. Lassoff submitted his restoration application one year after surrendering his license and asked him why he thought he was ready for re-licensure so soon, especially given a history of relapses. He responded, "I felt good about myself." Dr. Lassoff also told the Committee that he is getting married in five months and said, "I need to get back to medicine. I need to make money."

The overarching concern in all restoration cases is the protection of the public. A former licensee petitioning for restoration has the significant burden of satisfying the Board of Regents that licensure should be granted in the face of misconduct that resulted in the loss of licensure. There must be a clear preponderance of evidence that the misconduct will not recur and that the root causes of the misconduct have been addressed and satisfactorily dealt with by the petitioner. The Committee on the Professions (COP) believes it is not its role to merely accept as valid whatever is presented to it by the petitioner but to weigh and evaluate all of the evidence submitted and to render a determination based upon the entire record.

The COP concurs with the conclusion of the Peer Committee that Dr. Lassoff has failed to meet the burden of presenting a compelling case for restoration of his license. The COP is concerned that Dr. Lassoff has not demonstrated his recognition of the potential patient harm that could be caused by practicing as a physician while impaired by alcohol. Dr. Lassoff remains convinced that each of his patients received the best care possible and fails to recognize the impact his alcoholism undoubtedly had on the physical and mental conditions of his patients, and the risk he placed them in. The COP does not agree that there is no patient harm when a physician is practicing under the influence of alcohol. Dr. Lassoff has not been able to demonstrate to the COP that he is in fact currently sober. He said that he has not taken any urine tests during the time period he reported he has been sober, and he produced no documentation or witnesses to attest to his sobriety or participation in Alcoholics Anonymous. This lack of documentation is troubling, because Dr. Lassoff has made previous attempts at sobriety with support, monitoring, and psychiatric care in place, and has relapsed to his abuse of alcohol. Lacking any substantive proof, other than the word of the petitioner, the COP has no way to be sure that Dr. Lassoff is in fact sober. Moreover, although the petitioner expresses very strongly that he "understands" his disease and "accepts" his disease, his behavior before the COP belies these contentions. Dr. Lassoff continues to express a shame that prevents him from providing the COP with the documentation that it needs to assess whether the public will be safe if he were practicing again. He is reluctant to participate in monitoring because it makes him feel childish. He became extremely angry and agitated when describing his "concerns" with the Peer report. That anger appeared largely disproportionate to the concerns, and prevented Dr. Lassoff from focusing on core issues before him and the COP: rehabilitation, insight into his illness, sobriety and quality of patient care. While the COP certainly understands his "need to make money," that is insufficient grounds to restore a physician's license, particularly when the physician expresses no concern for the public. The COP questions

if Dr. Lassoff truly recognizes the root causes of his problem; "It just happened" is the only explanation he could offer for his relapses. Similarly, the COP believes that Dr. Lassoff has not demonstrated that he has taken his alcoholism and its effects seriously. The COP finds that Dr. Lassoff did not present a compelling case for the restoration of his license and that the public would not be sufficiently protected were his license restored.

Therefore, after a complete review of the record and its meeting with Dr. Lassoff on June 22, 1999, the Committee on the Professions voted unanimously to concur with the recommendation of the Peer Committee that Dr. Lassoff's application for the restoration of his license to practice as a physician in the State of New York be denied at this time.

Johanna Duncan-Poitier, Chair

Frank Muñoz

Kathy Ahearn



The University of the State of New York

NEW YORK STATE EDUCATION DEPARTMENT
OFFICE OF PROFESSIONAL RESPONSIBILITY
STATE BOARD FOR MEDICINE

-----X

In the Matter of the Application of

SAMUEL LASSOFF

**REPORT OF
THE PEER
COMMITTEE
CAL. NO. 16886**

for the restoration of his license to
practice as a physician in the State of
New York.

-----X

Applicant, Samuel Lassoff, was authorized to practice as a
physician in the State of New York by the New York State Education
Department by the issuance to him of license No. 13260 on or about
September 13, 1977.

PRIOR DISCIPLINARY HISTORY

On or about December 13, 1993, petitioner entered into a
confidential voluntary agreement with the State Board for
Professional Medical Conduct of the New York State Department of
Health. This agreement regarded allegations that petitioner was
dependent upon alcohol and drugs during various periods of the eight
years prior to the agreement. Petitioner's assent to the terms of
this agreement was conditioned upon the stipulation that no patient
harm resulted from his alleged impairment. The conditions of this
agreement included, among other things:

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- 1) that petitioner remain drug and alcohol free;
- 2) that petitioner's abstinence be monitored by an approved health care professional;
- 3) that petitioner submit to random drug and urine screenings;
- 4) that petitioner cooperate with the regular supervision of his practice by an approved monitor;
- 5) that petitioner submit quarterly reports to the Department of Health from the aforementioned monitors, with an additional mandatory notice within 24 hours of information relating to petitioner's possible drug or alcohol use or the refusal to submit to a random screening;
- 6) that petitioner continue in therapy, with regular reports from petitioner's therapist;
- 7) that petitioner continue in an aftercare program; and
- 8) that petitioner notify any treating health care provider(s) of his history of chemical dependency.

In January of 1995, following receipt of evidence that petitioner had relapsed into alcohol abuse, an order of the Commissioner of the Department of Health was issued summarily suspending petitioner's license to practice. Petitioner was subsequently charged with three specifications of misconduct. In response to these charges, petitioner signed an application to surrender his license on the basis that he could not successfully defend against those allegations.

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The charges consisted of the following:

- 1) That petitioner practiced the profession while impaired by alcohol, in that petitioner was arrested for driving under the influence of alcohol on November 5, 1994 and admitted to the emergency room of Metropolitan Hospital in New York City with a primary diagnosis of alcohol abuse on December 20, 1994. Included in this charge were the allegations that petitioner treated patients at the Kensington Medical Pain and Neurological Rehabilitation Center in Brooklyn, New York on various occasions between November of 1994 and January of 1995.
- 2) That petitioner was an habitual user of alcohol, based upon the aforementioned arrest and hospital admission; and
- 3) That petitioner engaged in professional misconduct in that he voluntarily surrendered his license after a disciplinary proceeding was instituted against him by a duly authorized disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct. This was based upon the action taken in July of 1993 by the New Jersey Board of Medical Examiners involving allegations of habitual alcohol abuse by petitioner. These charges resulted in petitioner's voluntary surrender of his New Jersey medical license on September 29, 1993.

The effective date of the surrender of petitioner's

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license in New York was April 7, 1995.

THE PETITION

By application dated September 24, 1996, petitioner applied for the restoration of his license to practice as a physician in the State of New York.

Petitioner sought to explain how he might have been perceived as abusing alcohol. He said that "in the last several years, dental procedures necessitated the extraction of teeth from my upper and lower gums for the implantation of permanent dentures. Following the extractions, my gums were extremely painful. For relief, I used a mouthwash, known as Scope, when needed. I was not aware of the fact that it contained some degree of alcohol. Thus, when treating patients, a sense of alcohol breath was detected. This, in no way detracted from taking care of patients in the best possible procedure...I am pleased to say that I am now at the conclusion of my implant dentistry."

"Despite the foregoing, it was suggested, while at NYU Medical Center, that I attend sessions with the Committee on Physicians Health which attendance I started in June, 1993 and continued until September, 1995. The expense for these sessions have been overwhelming. The sum of \$15,000 is close to the fact. In February, 1995, my medical license was revoked and my medical employment ceased. I have since been dependent for financial aid upon family which at this time is being severely compromised. I am humiliated and severely

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depressed."

In recalling his various professional affiliations in 25 years of practicing medicine, petitioner stated that this is the only "field of endeavor I know and wish to continue."

Petitioner discussed his experience in treating patients with neurologic disorders and said that he has a "strong and urgent need to investigate the possibilities of a cure for Parkinson's and Alzheimer's diseases. I wish to do extensive scientific research in brain malfunctioning."

Petitioner requested that his medical license be returned to him as soon as possible without being monitored by the Committee on Physicians Health, to which he has already given his time and recompense. His need is to "go full-speed ahead on my long-awaited project of research and extensive patient diagnosis."

He said that he has kept himself abreast of current medical practice from attendance at meetings of medical associations, reading books and articles in the field, and continuing his association with his professional friends.

He concluded his petition by asking the Board of Regents to "believe (his) sincerity and utmost need for the return of (his) medical license."

Appended to petitioner's application were affidavits of support for the restoration of his license.

THE HEARING

On August 5, 1998 this peer panel met to consider

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petitioner's application for restoration. Petitioner appeared in person and elected to proceed without an attorney after being apprised of his right to be represented by legal counsel. The Division of Prosecutions of the Office of Professional Discipline was represented by Stephen J. Lazzaro, Esq. The legal advisor to the peer panel was Howard J. Goodman, Esq.

In petitioner's opening statement, he noted that he had been alcohol free for three years. He related how his auto accident in November of 1995 (which led to his arrest for driving while intoxicated) "broke the whole thing in (his) psyche, and that probably precipitated me emotionally in getting out of the program...I wasn't happy in the program, I have to be honest with you, but that was the straw that broke the camel's back, the auto accident was what did it." This led to petitioner's wanting to leave the treatment program he was in, but also led to a resolve to quit alcohol through participation in Alcoholics Anonymous (AA).

He attended AA meetings six times a week in the beginning for about eight or nine months, and now goes about two to three times a week. He expressed pride in his sobriety and the "spiritual awakening" which occurred in him once alcohol was out of his system.

After opening statements petitioner presented himself before the panel and Mr. Lazzaro for questioning under oath.

Petitioner described his experience of being arrested for

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driving while intoxicated and how he realized his need to change. He said that he had a blackout in the car and attributed his drinking at the time to his anger at being in the treatment program imposed by the Department of Health. In particular, he resented the psychotherapy and random urine testing requirements of it as well as the quarterly reports to be submitted by employers. He testified that "I just didn't like the fact that I had to be under a microscope and it was getting to me, it was really getting to me."

Those parts of the program which he did like were the AA program for doctors, Dan Michaels, his contact person at the Committee on Physicians Health, who led him into AA, and his urine monitor, Gene Gattell.

Petitioner is especially interested in resuming his studies in neurologic research. To this end he has contacted the Christopher Reeve Foundation, but he cannot work with them without a license, which he has not told them is currently surrendered.

After a period of about eight months following the surrender of his license, during which time he lived on savings and unemployment insurance, petitioner sought employment at a number of pharmaceutical companies. He believes that he was not successful in this job search because these companies became aware that he had lost his license.

He then searched for jobs in unrelated fields. One was

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for selling vitamins for a company but he decided that he didn't have the personality for sales. Another involved using his art background from college studies in order to get a job at an art institute.

Eventually he spent about six months trading commodities, which he studied previously and which he enjoyed because it allowed him, he said, to use his intellect. He then came to the realization that what he really wanted to be doing was practicing medicine again.

Petitioner dates his alcohol problem to 1982. It began while working the night shift as an emergency room physician in Brooklyn, where he used to be offered rum by an employee there. Gradually he came to consume more and more liquor but didn't recognize himself as an alcoholic until some time in his career when he started to have complaints lodged against him, which he said were "genuine". He said that he sought help from his colleagues, who directed him to the Committee on Physicians' Health. He claims to have enjoyed its program but not the Department of Health's attitude towards him. He described how his withdrawal from alcohol included auditory and visual hallucinations; this was prior to devoting himself to AA.

AA was a program which worked for him. He got a sponsor, attended six or seven times a week in the beginning, and now goes to meetings two or three times a week. He described himself as being very happy in his sobriety but is

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not happy with his career and wants to get back to what he was trained for.

Petitioner recognizes that the burden of proof of establishing sobriety is on him but also is aware that he can't bring in anybody to substantiate this. He cited the examples of Anthony Hopkins and Daryl Strawberry as two well-known persons who overcame alcoholism to make successful comebacks and asked for a second chance like they had.

Petitioner then responded to questions from Mr. Lazzaro.

Petitioner stated that he is not currently in treatment with any mental health professional. His work situation consists of trading commodities online from his home computer. Prior to that he worked for his uncle's factory doing paperwork. He has not taken any continuing medical education courses since the surrender of his license and has not engaged in any volunteer work since that time.

When asked about the fact that he did not like the prior monitoring agreed to by him with the Department of Health, petitioner agreed with that statement and further said that he would not want monitoring now if the panel suggested it as a condition of restoration. He said that is because it does not work for him emotionally, although if he were restored he would be willing to consider it due to his improved financial condition.

Petitioner was asked why he did not bring his sponsor from AA as evidence of his sobriety. He replied that he

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wouldn't because the organization does its work anonymously and that his sponsor did not want to come. He also did not ask anyone else to attend this hearing on his behalf.

Although petitioner regards himself as cured, and has no desire for alcohol, he recognizes that sobriety is a one day at a time proposition.

Petitioner believes that his clinical skills are up to par but sees the value of keeping abreast of professional developments through his reading of journals. He has not attended continuing education courses because he does not have a license and it gives him an inferiority complex to be in the presence of licensed physicians, although he knows that licensure is not required to take such courses. In fact he rejects requests to take these courses because of what he describes as a "certain degree of bitterness".

In trying to explain his lack of a sponsor from AA appearing on his behalf, petitioner said that he tries to keep his AA affiliation very private. He felt that he wanted to handle this on his own and not get AA people involved in it. He does not tell people in AA that he's lost his medical license and the only one who does know is his sponsor.

He described his personal support structure as consisting of his mother, AA, and a person with whom he has had a relationship for the past year. He is also very physically active and works out every day.

Through further questioning, petitioner seemed to amend

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his earlier response about monitoring by saying that he would be open to it in order to get his license back, but did resent the cost and time of the psychotherapy he was previously involved in. He also objected to some of the comments made by the Department of Health in its position on this application and believed that this was, in effect, a hopeless proposition.

Petitioner said, "...the idea is I'd like to get my license back and I would do it, I would consider going back into a program, although I don't want it...I really hadn't been eager to do it, but I want my license back."

Petitioner also further explained his reluctance to take continuing medical education. The effect of losing his license was just so devastating that he felt inadequate without it and inferior to other physicians taking such classes. He said that he would be willing to take classes if he had his license back.

Petitioner viewed his chance of receiving his license back as just about "nil" prior to the hearing due to the Department of Health's opposition, but also wanted to handle this matter in the "proper fashion" and to show the panel what's gone on in his life. Petitioner did not realize that it was the Board of Regents which decides whether he should be relicensed, not the Department of Health.

The Department in its closing argument opposed the granting of petitioner's application. Petitioner has

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presented no evidence of alcoholism treatment or continuing medical education. He submitted no recent letters from persons who know him and can vouch for his sobriety or witnesses to speak on his behalf at the hearing.

Despite this lack of continuing education, petitioner further testified that his clinical skills are up to snuff and that therefore he is not in need of updated training. He also said that he would not want monitoring if he had his way, although questioning from the panel led him to change his position if it resulted in the restoration of his license.

Petitioner's approach to this restoration proceeding also calls into question his judgment and reasoning powers. Although petitioner spoke with some feeling about his desire to re-enter the field of medicine in the area of research, his actions since losing his license speak otherwise. Petitioner told of his commodities trading and other activities which filled his time, but none of it was in medically-related fields.

Mr. Lazzaro said that the Department of Health expressed it best in their letter of opposition to petitioner's application:

"Petitioner's petition omits any reference to a treatment program or addiction assessment after his license surrender of April 1995. There is no evidence that he has developed any insight into or understanding of the nature of

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his alcohol addiction. His petition contains no supporting documentation from the Committee on Physicians' Health, no neuropsychological evaluation, no certified treatment records, no attestations from current treatment providers or evidence of recovery. In fact, it appears that petitioner is in denial of his alcoholism."

Petitioner concurred with many of the points made by the Department through Mr. Lazzaro. He would have difficulty denying anything pointed out by the Department in terms of his lack of evidence regarding his sobriety or continuing medical education. He knew, coming into the hearing, that he was opposed to participating in a monitoring program, and recognizes that it would be "ludicrous" to expect this panel to recommend relicensure without further evidence of that cited by the Department.

He remains thankful that he was able to get past alcoholism through AA and has a sense of calm about it. He also says that he would consider going back into a program if he got his license back and hopes that the panel considers that attitude a plus.

Petitioner concluded by saying that he would abide by the final decision of the panel, which he feels has afforded him a very fair hearing.

RECOMMENDATION

In considering any application for restoration of licensure we take into account the three generally accepted

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criteria (where applicable) of remorse, re-education and rehabilitation. It is up to petitioner to meet the burden of submitting evidence as would compel (emphasis added) the exercise of discretion in his favor. Greenberg v. Board of Regents of University of New York, 176 A.D. 2d 1168, 575 N.Y.S. 2d 608, 609.

The restoration of a license is intended to apply only to exceptional cases where petitioner's merit is clearly established to the satisfaction of the Board of Regents.

Reddick v. Board of Regents, 58 Misc. 2d 970, 297 N.Y. S. 2d 539.

Furthermore, we are of course entrusted and empowered to protect the valid interests and concerns of the public as well as its health and welfare.

Accordingly, and based upon the record before us, it is the finding of this peer panel that petitioner has failed to meet this aforementioned burden.

Rarely have we been presented with an application for restoration so bereft of evidence in its favor. Putting aside briefly the total lack of documentation provided by petitioner, his attitudes and thought processes reveal a mindset totally devoid of insight into his disease.

Petitioner's lack of insight into his alcoholism is most apparent when he describes his attendance at AA meetings, where he refuses to identify himself as a physician to those in recovery with him. His overwhelming sense of shame over

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his alcoholism also prevented him from calling a sponsor or anyone else who could attest to his sobriety. It is this same sense of shame which prevents him from taking the steps necessary to re-enter the medical field, in that his embarrassment prevents him from attending continuing education courses where his lack of licensure might become known to fellow physicians.

Further evidence of his denial is petitioner's strong resistance to monitoring or oversight of his treatment or practice.

This lack of honesty in confronting his disease necessarily precludes petitioner from establishing that he is in abstinence from it or truly in recovery.

Equally troubling to us is petitioner's lack of remorse or concern over the patients he treated while impaired. Petitioner seems to have no awareness of the potential jeopardy his patients faced while he practiced in such an impaired state.

On a more concrete level, petitioner's failure to present documentation of alcohol or substance abuse treatment, letters or witnesses attesting to his current state of sobriety, or proof of continuing medical education showing that he has kept abreast of the medical field, calls into question his present competence as a physician.

In summing up our opinion regarding this application, we have no choice but to adopt petitioner's choice of language

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in assessing his possibility of recovering his license on the basis of what he has presented to us: "ludicrous".

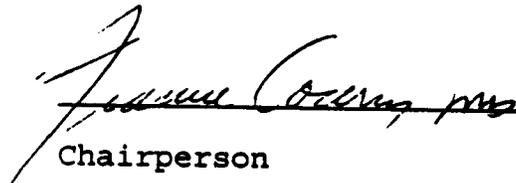
Based on the foregoing, we unanimously determine that petitioner's application for the restoration of his license to practice as a physician in the State of New York be denied.

Respectfully submitted,

Francine Cournos, M.D., Chairperson

Paul A. Gitman, M.D.

Anthony Santiago, Public Member


Chairperson

3/22/99
Dated