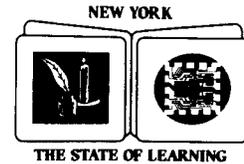


# RECEIVED

JUL 8 1987

OFFICE OF PROFESSIONAL  
MEDICAL CONDUCT



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12230

ASSISTANT COMMISSIONER, OFFICE OF THE PROFESSIONS  
OFFICE OF PROFESSIONAL DISCIPLINE, 622 THIRD AVENUE, NEW YORK, NEW YORK 10017

June 19, 1987

Lincoln Darius Allen, P.A.  
971 Jerome Street - Apt. 7E  
Brooklyn, NY 11239

Re: License No. 000366

Dear Dr. Allen:

Enclosed please find Commissioner's Order No. 7079. This Order and any penalty contained therein goes into effect five (5) days after the date of this letter.

If the penalty imposed by the Order is a surrender, revocation or suspension of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. In such a case your penalty goes into effect five (5) days after the date of this letter even if you fail to meet the time requirement of delivering your license and registration to this Department.

Very truly yours,

DANIEL J. KELLEHER  
Director of Investigations  
By:

A handwritten signature in cursive script that reads "Gustave Martine".

**GUSTAVE MARTINE**  
Supervisor

DJK/GM/mc  
Enclosures

CERTIFIED MAIL - RRR

cc: Rachel B. Backer, Esq.  
299 Broadway - Suite 1300  
New York, NY 10007



# The University of the State of New York

IN THE MATTER

of the

Disciplinary Proceeding

against

**LINCOLN DARIUS ALLEN**

No. 7079

who is currently registered to practice as a physician's assistant in the State of New York.

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## Report of the Regents Review Committee

LINCOLN DARIUS ALLEN, hereinafter referred to as respondent, was registered to practice as a physician's assistant in the State of New York by the New York State Education Department.

The instant disciplinary proceeding was duly commenced. A copy of the statement of charges is annexed hereto, made a part hereof, and marked as Exhibit "A."

On July 9, 1986 and August 27, 1986, a hearing was held before a hearing committee of the State Board for Professional Medical Conduct.

The hearing committee rendered a report of its findings, conclusions, and recommendation, a copy of which is annexed hereto, made a part hereof, and marked as Exhibit "B".

**LINCOLN DARIUS ALLEN (7079)**

On October 9, 1986 the hearing committee found and concluded that respondent was guilty of the first and third specifications of the charges and not guilty of the second specification of the charges, and recommended that respondent's registration to practice as a physician's assistant in the State of New York be revoked.

On November 12, 1986 the Commissioner of Health recommended to the Board of Regents that the findings, conclusions, and recommendation of the hearing committee be accepted in full. A copy of the recommendation of the Commissioner of Health is annexed hereto, made a part hereof, and marked as Exhibit "C".

On January 9, 1987, respondent appeared before us and was represented by his attorney Rachel B. Backer, Esq., who presented oral argument on behalf of respondent. Joel Hornstein, Esq., presented oral argument on behalf of the Department of Health.

We have considered the entire record in this matter.

We unanimously recommend to the Board of Regents that the findings of the hearing committee and the recommendation of the Commissioner of Health with respect thereto be accepted.

We also unanimously recommend to the Board of Regents that the conclusions of the hearing committee, concluding guilt as to the first and third specifications, and the

**LINCOLN DARIUS ALLEN (7079)**

recommendation of the Commissioner of Health with respect thereto be accepted, except for the conclusion relating to the second specification of the charges that respondent's acts did not directly relate to or fall within the parameters of the practice of medicine. Our conclusion that respondent is not guilty of the second specification is premised on our view that the conduct was fraudulent rather than negligent, that the care provided by respondent has not been alleged, shown, or found by the hearing committee or the Commissioner of Health to be below the level or quality of care expected from a physician's assistant, and that, as believed by the hearing committee, respondent showed a high standard of patient care.

With respect to the measure of discipline, we unanimously recommend to the Board of Regents that the recommendation of the hearing committee and the Commissioner of Health be accepted, except for any reference to the second specification of the charges. Our recommendation that respondent's registration to practice as a physician's assistant in the State of New York be revoked is premised on our view that the conclusion of guilt as to the third specification alone or in conjunction with the conclusion of guilt as to the first specification warrants the imposition of this penalty. Contrary to respondent's position asserted below to the Commissioner of Health regarding the third

LINCOLN DARIUS ALLEN (7079)

specification, it is our unanimous opinion that the judgment of the Supreme Court is the beginning and not the end of our inquiry in resolving this professional disciplinary proceeding. Furthermore, it is our unanimous opinion that the conduct referred to in the third specification demonstrates a lack of honesty, integrity, and sound judgment relating to a profession.

Respectfully submitted,

EMLYN I. GRIFFITH

JANE M. BOLIN

PATRICK J. PICARIELLO

  
Chairperson

Dated: May 5, 1987

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

-----X  
: STATEMENT  
: OF  
: CHARGES  
:   
:   
-----X

The Office of Professional Medical Conduct alleges as follows:

1. Lincoln Darius Allen, P.A., herein called the Respondent, was authorized to practice as a Physician's Assistant in the State of New York in the year 1975 by the issuance of license number 00366 by the State Education Department.

2. Respondent is currently registered with the New York State Education Department to practice as a Physician's Assistant for the period January 1, 1984, through December 31, 1986 from 971 Jerome Street, Apt. 7E, Brooklyn, N.Y. 11207.

3. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509 and/or §6509-a (McKinney 1985) as set forth in the attached specifications:

**EXHIBIT "A"**

FIRST SPECIFICATION

4. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(2) (McKinney 1985) in that he practiced his profession fraudulently, specifically:

On or about March 18 and 19, 1985, the Respondent, although not an employee of St. John's Episcopal Hospital, Far Rockaway, N.Y., knowingly substituted for another physician's assistant then employed at St. John's Episcopal Hospital by knowingly forging the name of the other physician's assistant on an attendance roster and by knowingly working the tour of duty of the other physician's assistant on the dates stated above without notifying hospital authorities and obtaining their permission.

SECOND SPECIFICATION

5. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(2) (McKinney 1985) in that he practiced his profession negligently on more than one occasion, specifically:

Petitioner repeats the allegation set forth in the First Specification, paragraph 4 of this Statement of Charges.

THIRD SPECIFICATION

4. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(5)(a)(i) (McKinney 1985) in that he has been convicted of committing an act constituting a crime under New York State law, specifically:

On or about February 15, 1985, Respondent was convicted upon his plea of guilty in the Supreme Court, County of New York, of violating Title 8, Article 130, subarticle 4, section 6512(1) of the Education Law in that on or about and between August 1981 and July 31, 1983, Respondent, although not authorized to practice medicine, obtained by fraudulent means a diploma purporting to authorize the practice of medicine, viz., a diploma from CETAC University awarding the degree of Doctor of Medicine.

On or about March 28, 1985, Respondent was sentenced to five years probation and ordered to pay a fine of one thousand dollars (\$1,000.00).

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Kathleen Tanner  
Director  
Office of Professional  
Medical Conduct

Dated: \_\_\_\_\_  
Albany, New York

STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT  
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IN THE MATTER :  
OF :  
LINCOLN DARIUS ALLEN, P.A. :

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REPORT BY  
HEARING COMMITTEE

and

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IN THE MATTER :  
OF :  
BERTRAM VINCENT JACKSON, P.A. :

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TO: Hon. David Axelrod, M.D.  
Commissioner of Health, State of New York

The undersigned Hearing Committee (the Committee) consisting of Ms. Patricia M. Cook, (Chairperson), Joseph T. Doyle, M.D., Jerome L. Ditkoff, D.O., David T. Lyon, M.D. and Gerald J. Lustig, M.D., was duly designated, constituted and appointed by the State Board for Professional Medical Conduct (the Board). Jonathan M. Brandes, Esq., served as the Administrative Officer.

EXHIBIT "B"

The hearing was conducted pursuant to the provisions of New York Public Health Law §230 and New York State Administrative Procedures Act §§301-307 to receive evidence concerning the charges that the Respondents have violated provisions of New York Education Law §6509. Witnesses were sworn or affirmed and examined. A stenographic record of the hearing was made. Exhibits were received in evidence and made a part of the record.

The Committee has considered the entire record in the above captioned matter and makes a Report of its Findings of Fact, Conclusions and Recommendations to the New York State Commissioner of Health.

RECORD OF PROCEEDINGS

Notice of Hearing and Statement of Charges Dated:	May 12, 1986 (Allen) May 13, 1986 (Jackson)
Notice of Hearing Returnable:	July 9, 1986
Place of Hearing:	8 East 40th Street and 33 West 34th Street New York, New York
Answer of Respondent Served:	None served
The State Board for Professional Medical Conduct Appeared by:	Joel Hornstein, Esq. Assistant Counsel State Board for Professional Medical Conduct 8 East 40th Street New York, New York

Respondents Appeared by: Harvey Strelzin, Esq.  
299 Broadway  
New York, New York 10007

Respondent Allen's Present  
Address: 971 Jerome Street  
Apt. 7-E  
Brooklyn, New York 11239

Respondent Jackson's Present  
Address: 782 Hendrix Street  
Brooklyn, New York 11207

Hearings Held On: July 9, 1986  
August 27, 1986

Deliberations Held by Committee: August 27, 1986 and  
October 1, 1986

Transcript Received: September 9, 1986

#### SUMMARY OF PROCEEDINGS

1. The Respondents are charged with violations of Section 6509 of the New York Education Law in that they are each alleged to have committed an act constituting a crime under New York State Law: obtaining by fraud, a diploma purporting to authorize the practice of medicine. The Respondents are also charged with practicing their profession fraudulently and negligently on more than one occasion in that Respondent Allen substituted for Respondent Jackson without appropriate notification to and permission from hospital authorities. These charges are more specifically set forth in the Statements of Charges (as amended) which are collectively attached hereto as Appendix I.

2. The Respondents submitted no written answers relying instead upon general oral denial.

3. The Respondents appeared on July 9, 1986 with their attorney Harvey L. Strelzin, Esq. Counsel moved for an adjournment. The motion was denied but the Respondents were granted leave to present their case on August 27. Counsel for the Respondents left the hearing on July 9, upon denial of his motion. The Respondents chose to remain without counsel present. The Board presented part of its case July 9 and concluded on August 27. Counsel for the Respondents was present and participated fully on August 27, 1986.

4. The Board called these witnesses:

Sheldon Markowitz, M.D.

Ronald B. Connors, M.D.

5. The Respondents testified in their own behalf and on behalf of each other. The Respondents called no other witnesses.

#### FINDINGS OF FACT

1. Lincoln Darius Allen, P.A., herein called Respondent Allen was authorized to practice as a Physician's Assistant in the State of New York in the year 1975 by the issuance of license number 00366 by the State Education Department (Ex. 7)

2. Respondent Allen is currently registered with the New York State Education Department to practice as a Physician's Assistant for the period January 1, 1985, through December 31, 1986 from 971 Jerome Avenue, Brooklyn, New York, 11239 (Ex. 7).\*

3. Bertram Vincent Jackson, P.A., herein called Respondent Jackson, was authorized to practice as a Physician's Assistant in the State of New York in the year 1975 by the issuance of license number 000357 by the State Education Department (Ex. 8).

4. Respondent Jackson is currently registered with the New York State Education Department to practice as a Physician's Assistant for the period January 1, 1984, through December 31, 1986 from 782 Hendrix Street, Brooklyn, New York, 11207 (Ex. 8).

5. On February 15, 1985 in Supreme Court, New York County, both Respondents pled guilty to a violation of Title 8, Sub-Article 4, Section 65.12(1) of the Education Law. In this plea, both Respondents admitted that from August of 1981 to July 31, 1983 they each attempted to obtain a diploma from Cetac University which purported to authorize the practice of medicine and that they did so by fraudulent means (Ex. 9, 10, 13, 14).

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\*(Ex\_\_ ) refers to an exhibit received in evidence.  
(T\_\_ ) refers to a page or pages in the transcript.

6. On March 28, 1985 the Respondents were each sentenced to five years probation and a fine of One Thousand Dollars (\$1000.00) (Ex. 11, 12, 15 and 16).

7. On March 18 through 21, 1985 Respondent Jackson was employed by St. John's Episcopal Hospital (St. John's) as a Physician's Assistant (T. 78, 112).

8. Some time prior to March 18, 1985 Respondent Jackson asked Dr. Sheldon Markowitz, Associate Director of Medicine at St. John's if a qualified friend could work in his place on occasion. Dr. Markowitz told Respondent Jackson that such substitution would only be possible if the friend presented himself and his credentials to appropriate officials at the hospital. Upon completion of the interview process, the friend could then be listed on the payroll and substitute for Respondent Jackson (T. 89, 115).

9. On March 18 and 19 Respondent Jackson had a medical emergency involving one of his children (T. 135-136, 144, 146).

10. Respondent Jackson made no attempt to contact St. John's on March 18 or 19 to notify them that Respondent Allen would be present (T. 130).

11. The Respondents admit that Respondent Allen substituted for Respondent Jackson on March 18 and 19 and that Respondent Allen signed the name of Respondent Jackson on payroll/attendance records (Ex. 6, T. 81, 88, 100, 114, 123, 124, 161).

12. Respondent Allen had not met with any hospital officials prior to March 18 and 19, 1985 and he was not an employee of St. John's at that time (T. 87, 110, 112, 135).

13. Respondent Allen performed histories, physical examinations and wrote orders on March 18 and 19, 1985. Respondent Allen was not authorized by St. John's to do so at that time (T. 87, 90-91; Ex. 5).

14. Respondent Allen signed his own name on the histories, physical examinations and orders he wrote on March 18 and 19, 1985 (T. 85, 100; Ex. 5).

15. On March 18 and 19 Respondent Allen presented his license to staff members at St. John's and indicated he was substituting for Respondent Jackson (T. 147, 153).

16. Nurses are not authorized to receive and review credentials of physician's assistants at St. John's (T. 108).

17. On March 20, 1986, Dr. Markowitz was informed by a nurse at the facility that there had been a new physician's assistant on duty the previous two nights who was identified as Respondent Allen (T. 79).

18. Dr. Markowitz conducted an internal investigation (T. 80-89). This investigation disclosed that that name Bertram Jackson appeared on the attendance sign-in sheets for March 18 and 19, 1985 (80-86).

19. On March 21, 1986 Respondent Jackson admitted to Dr. Markowitz and Dr. Connors the Hospital Administrator, that Respondent Allen had taken his place on March 18 and 19, 1985 (T. 88, 114).

20. Respondent Jackson was terminated by Dr. Connors on March 21 and escorted from the facility (T. 116).

21. Respondent Allen had substituted for Respondent Jackson at Peninsula Hospital after going through a credentialing process (T. 132).

22. It is the practice and procedure at other hospitals in which Respondent Allen is employed, to go through a credential review and interview prior to substitution (T. 152).

23. Respondent Jackson paid Respondent Allen for the work he performed at St. John's but income was not Respondent Allen's primary motivation in substituting (T. 157).

#### CONCLUSIONS

The Committee finds unanimously (5-0) that the factual allegations set forth in the Statement of Charges were proven. Indeed, as to the criminal charges, the Committee notes that the Respondents did not deny the allegations.

The Committee now turns its attention to whether the facts proven sustain the violations alleged. The Committee considered the question of fraudulent practice (Specification One) to encompass two elements: 1) was there a deception and 2) was the deception intentional. The Committee was unanimous (5-0) in its conclusion that both Respondents participated in a deception upon St. John's and that the deception was intentional. More specifically, the Committee found that Respondent Allen forged Respondent Jackson's name and that he did so intending to deceive St. John's and that St. John's was indeed deceived. The Committee found that while Respondent Allen actually made the false signature, he did so at the behest of and in concert with Respondent Jackson who thereby participated in the fraud.

The first specification is unanimously (5-0) sustained.

The Committee considered the question of negligence on more than one occasion as set forth in the second specification. The Committee was given two questions to consider: is adherence to administrative rules and policies at a hospital part of the practice of medicine and if so, did the Respondents demonstrate a deviation from that level of care and prudence to be expected of a physician's assistant in this State?

The Committee found that the Respondents' actions concerning the substitution violated the credentialing policies and practices of St. Johns and other hospitals with which the Respondents were associated. However, the Committee found that violation of these policies did not directly relate to the practice of medicine.

Moreover, the Committee noted that Respondent Allen signed his real name to all medical forms, charts, orders, etc. which they interpreted as reflecting prudence on the part of Respondent Allen. The Committee was also of the opinion that the falsification of an attendance/payroll ledger, under the facts herein, did not fall within the parameters of medical practice. While the Committee noted that a question of negligence in the practice of medicine went beyond patient care, they found it significant that Respondent Allen had shown a high standard of patient care.

The second specification is unanimously (5-0) not sustained.

The Committee had little to consider under the third specification since the evidence overwhelmingly showed that the Respondents had been convicted of criminal acts with regard to fraudulent diplomas. Indeed, this specification was not denied by the Respondents.

The third specification is unanimously (5-0) sustained.

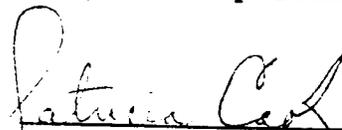
RECOMMENDATIONS

The activities proven under the first and second specification showed a dramatic failure of understanding, on the part of the Respondents of rather basic and universal hospital procedures. That, plus their fraudulent diplomas, demonstrated the Respondents to have extraordinarily poor judgment which far outweighed any technical expertise they might have.

The Committee unanimously (5-0) recommends that the license of Respondent Jackson and the License of Respondent Allen be REVOKED.

DATED: *October 9* 1986

Respectfully submitted,



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Patricia Cook, Chairperson

Jerome L. Ditkoff, M.D.  
Joseph T. Doyle, M.D.  
Gerald Lustig, M.D.  
David T. Lyon, M.D.

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

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IN THE MATTER :  
OF :  
LINCOLN DARIUS ALLEN, P.A. : COMMISSIONER'S  
and :  
BERTRAM VINCENT JACKSON, P.A. : RECOMMENDATION

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To: Board of Regents  
New York State Education Department  
State Education Building  
Albany, New York

A hearing in the above-entitled proceeding having been held on July 9 and August 27, 1986, and the Respondents Lincoln Darius Allen, P.A. and Bertram Vincent Jackson, P.A., having appeared by Harvey Strelzin, Esq., and the evidence in support of the charges against the Respondents having been presented by Peter J. Millock, Esq., General Counsel, by Joel Hornstein, Esq., of Counsel.

NOW, on reading and filing the transcript of the said hearing, the exhibits and other evidence, and the findings, conclusions and recommendations of the Committee;

I hereby make the following recommendation to the Board of Regents:

- A. that the Findings of Fact, Conclusions and Recommendations of the hearing panel be accepted in full; and
- B. that the Board of Regents issue an order adopting and incorporating the said Findings of Fact and Conclusions and further adopting as its determination the said Recommendations.

**EXHIBIT "C"**

The entire record of the within proceeding is herewith transmitted.

DATED: Albany, New York  
*November 12* 1986

  
\_\_\_\_\_  
DAVID AXELROD, M.D., Commissioner  
New York State Department of Health

LINCOLN DARIUS ALLEN

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CALENDAR NO. 7079

Approved May 22, 1987

No. 7079

Upon the report of the Regents Review Committee, under Calendar No. 7079, the record herein, and in accordance with the provisions of Title VIII of the Education Law, it was

Voted: That, in the matter of LINCOLN DARIUS ALLEN, respondent, the recommendations of the Regents Review Committee be accepted with respect to the findings of fact, conclusions, and recommendation of the Hearing Committee of the State Board for Professional Medical Conduct and with respect to the recommendation of the Commissioner of Health; that respondent is guilty of the first and third specifications by a preponderance of the evidence; that respondent is not guilty of the second specification as indicated by the Regents Review Committee; that respondent's license be revoked upon each of the first and third specifications of the charges of which respondent was found guilty, in agreement with the reasoning of the Regents Review Committee; and that the Commissioner of Education be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote.



# The University of the State of New York

IN THE MATTER

OF

**LINCOLN DARIUS ALLEN**  
(Physician's Assistant)

**DUPLICATE**  
**ORIGINAL ORDER**  
**NO. 7079**

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Upon the report of the Regents Review Committee, under Calendar No. 7079, the record herein, the vote of the Board of Regents on May 22, 1987, and in accordance with the provisions of Title VIII of the Education Law, which report and vote are incorporated herein and made a part hereof, it is

ORDERED that, in the matter of LINCOLN DARIUS ALLEN, respondent, the recommendations of the Regents Review Committee be accepted with respect to the findings of fact, conclusions, and recommendation of the Hearing Committee of the State Board for Professional Medical Conduct and with respect to the recommendation of the Commissioner of Health; that respondent is guilty of the first and third specifications by a preponderance of the evidence; that respondent is not guilty of the second specification as indicated by the Regents Review Committee; and that respondent's license be revoked upon each of the first and third specifications of the charges of which respondent was found guilty, in agreement with the reasoning of the Regents Review Committee.

IN WITNESS WHEREOF, I, Gordon M. Ambach,  
Commissioner of Education of the State  
of New York, for and on behalf of the



ORDER OF THE COMMISSIONER OF  
EDUCATION OF THE STATE OF NEW YORK

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LINCOLN DARIUS ALLEN

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CALENDAR NO. 7079