

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

OFFICE OF PROFESSIONAL DISCIPLINE  
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5802

June 9, 1999

Jesse Bryant, Physician  
45 Fifth Avenue, #1A  
New York, New York 10003-4321

Re: Application Restoration

Dear Dr. Bryant:

Enclosed please find the Commissioner's Order regarding Case No. 99-60-63 which is in reference to Calendar No. 16626. 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

RECEIVED

JUN 11 1999

OFFICE OF PROFESSIONAL  
MEDICAL CONDUCT



*The University of the State of New York*  
Education  Department

IN THE MATTER

of the

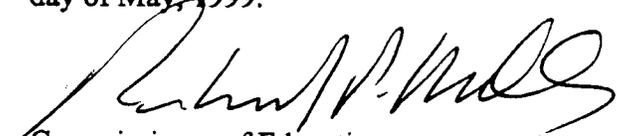
Application of JESSE BRYANT for restoration of his license to practice as a physician in the State of New York.

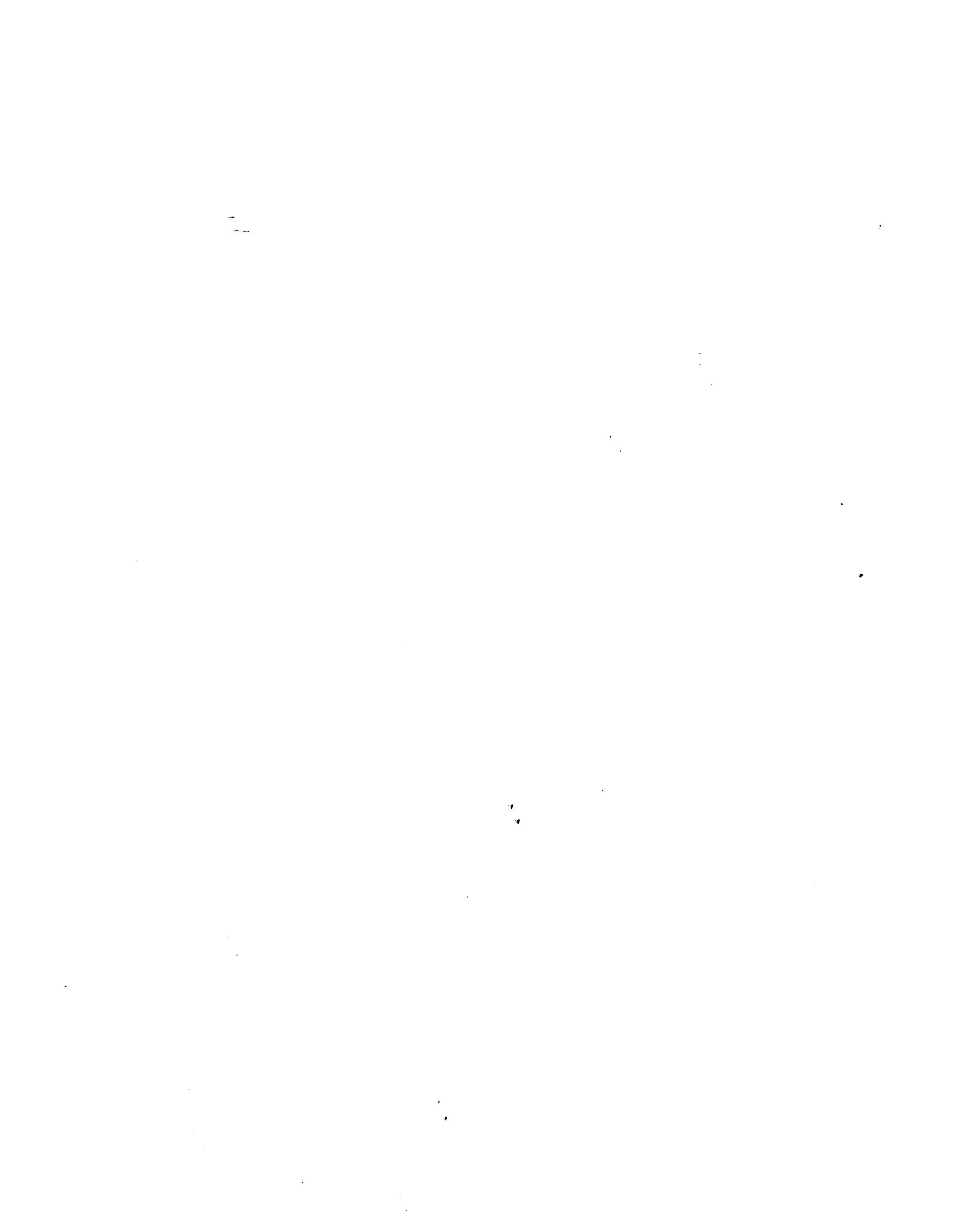
Case No. 99-60-63

It appearing that the license of JESSE BRYANT, 45 Fifth Avenue, Apt. 1A, New York, New York 10003-4321, authorizing him to practice as a physician in the State of New York, was revoked by action of the Board of Regents on January 23, 1991, and he having petitioned the Board of Regents for restoration of said license, and the Regents having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 April 27, 1999, it is hereby

ORDERED that the petition for restoration of License No. 079575, authorizing JESSE BRYANT 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 28<sup>th</sup> day of May, 1999.

  
Commissioner of Education



Case No. 99-60-63

It appearing that the license of JESSE BRYANT, 45 Fifth Avenue, Apt. 1A, New York, New York 10003-4321, authorizing him to practice as a physician in the State of New York, was revoked by action of the Board of Regents on January 23, 1991, 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 April 27, 1999, it was

VOTED that the petition for restoration of License No. 079575, authorizing JESSE BRYANT to practice as a physician in the State of New York, be denied.



Case Number 99-60-63  
January 25, 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: Jesse Bryant**

**Not Represented by Counsel**

Jesse Bryant, 45 Fifth Avenue, Apt. 1A, New York, New York 10003-4321, petitioned for restoration of his physician license. The chronology of events is as follows:

- |          |  |
|----------|--|
| 08/08/57 | Issued license number 079575 to practice medicine in New York State.   |
| 01/09/90 | Charged with professional misconduct by Department of Health.  |
| 07/02/90 | Hearing Committee of State Board for Professional Medical Conduct recommended revocation.                      |
| 09/07/90 | Commissioner of Health recommended revocation.   |
| 01/08/91 | Regents Review Committee recommended revocation.   |
| 01/23/91 | Board of Regents voted revocation.   |
| 02/06/91 | Effective date of revocation.  |
| 12/21/94 | Petition for restoration of physician license submitted.   |
| 01/30/98 | Peer Committee restoration review.   |
| 11/02/98 | Report and recommendation of Peer Committee. (See "Report of the Peer Committee.")                             |
| 01/25/99 | Report and recommendation of Committee on the Professions. (See "Report of the Committee on the Professions.") |

**Disciplinary History.** (See Report of the Regents Review Committee.) On January 9, 1990, the Department of Health charged Dr. Bryant with 12 specifications of professional misconduct. On July 31, 1993, a Hearing Panel of the State Board for Professional Medical Conduct found Dr. Bryant guilty of 8 of those specifications and voted to revoke his license. The Panel found Dr. Bryant guilty of practicing medicine with negligence, practicing with incompetence, practicing with gross negligence, practicing with gross incompetence, and failing to maintain records which accurately reflect the evaluation and treatment of the patient. He was found guilty of charges relating to two patients. Dr. Bryant inappropriately prescribed drugs for one patient, including Valium, Ativan, Elavil, and Vicodin; failed to obtain and note sufficient diagnostic and evaluative information to warrant the drugs; and provided the patient with money, knowing that she used that money to purchase heroin. For the other patient, Dr. Bryant was found guilty of inappropriately prescribing Seconal, Valium, Ativan, Tranxene, and Darvon; failing to refer the patient to any detoxification or drug rehabilitation program; and failing to obtain and note sufficient diagnostic and evaluative information to warrant the treatment.

The Commissioner of Health supported the findings and recommendations of the Hearing Committee. On January 8, 1991, a Regents Review Committee accepted the findings of the Hearing Committee (except for conduct occurring prior to October 1, 1977, the date after which Regents Rules made failure to maintain records part of professional misconduct) and supported their recommendation to revoke Dr. Bryant's license. On January 23, 1991, the Board of Regents voted to revoke Dr. Bryant's license and the Commissioner's Order was effective February 6, 1991. Dr. Bryant submitted an application for restoration on December 21, 1994.

**Recommendation of the Peer Committee.** (See attached Report of the Peer Committee.) The Peer Committee (Cordice, Jr.; Boyce; Riggins) met on January 30, 1998. In its report dated November 2, 1998, the Committee recommended unanimously that Dr. Bryant's application for restoration be denied.

**Recommendation of the Committee on the Professions.** On January 25, 1999, the Committee on the Professions (Duncan-Poitier, Ahearn, Muñoz) met with Dr. Jesse Bryant to consider his petition for restoration. An attorney did not accompany him. Dr. Bryant presented the Committee with:

- A letter of recommendation, dated December 30, 1998, from Neil Goldman, M.D., Dr. Bryant's psychotherapist from 1989 to 1997.
- A letter, dated January 4, 1999, from Hubertus Raben, Psychoanalytic Psychotherapist, indicating that Dr. Bryant was seeing him "to gain a better understanding of himself and to improve his handling of patients who come to him for psychotherapy."

- A letter, dated January 19, 1999, from Joan M. Heitschel, Registrar, Washington Square Institute for Psychotherapy and Mental Health, stating that Dr. Bryant "is registered and attending classes at this Institute."

The Committee asked Dr. Bryant to explain why he lost his license. He responded that he "started going out with a girl who was a drug addict and prescribed controlled substances for her." He stated that he prescribed those drugs in larger and larger amounts and continued doing so "until someone called law enforcement." Dr. Bryant said that detectives came to his office, examined his records, and "found other things" with which to charge him. In response to the Committee's inquiry, Dr. Bryant said that the detectives were correct in their findings and not merely just searching for something that really didn't exist.

The Committee asked Dr. Bryant about his relationship with Patient A and noted that the investigator from the Office of Professional Discipline reported that Dr. Bryant had told him they were lovers whereas Dr. Bryant had stated at the Peer Committee meeting that there was no relationship with the patient. Dr. Bryant replied, "We did not become lovers." He said that in the beginning he was hoping that she would be his lover but as they got to know each other, neither he nor she wanted that relationship. Dr. Bryant reported that he stopped seeing her as a patient so that he could begin a personal relationship with her, explaining that it would be improper to do both simultaneously. However, he continued prescribing controlled drugs for her. The Committee asked if it was appropriate to just "cut off" therapy for a patient who still obviously needed help, based upon his desire to have a social relationship. Dr. Bryant responded, "Obviously, that's not the right way to do it." He said that a therapist is supposed to see people only as patients and not for possible social purposes. He seemed, however, to believe that because he was no longer Patient A's therapist, it was not wrong to have a relationship with her.

The Committee asked Dr. Bryant what was different about him today. He replied that he had seen a psychiatrist for eight years and felt he had an understanding of the wrong things he had done. He stated, "I don't think I'll do them any more." The Committee asked what he meant by "wrong things." Dr. Bryant said that he has learned that he is "too cooperative with requests people make, unless they are outrageous." He indicated that he "didn't know the right place to draw the line." Dr. Bryant told the Committee that he is now seeing a different therapist and the Committee asked him what diagnosis his new therapist had given him. Dr. Bryant responded, "I never asked him."

Dr. Bryant indicated that if his license were restored he only planned to do psychotherapy and would do no prescribing. The Committee asked why he was seeking restoration of his physician license, as he could be a psychotherapist without a license. Dr. Bryant responded that he wanted the license so that he "could accept insurance." He reported that he is taking courses at the Washington Square Institute for Psychotherapy and Mental Health but can't matriculate there unless his license is restored. He told the Committee that he wants to get a diploma in psychotherapy and

wants to do further study in psychoanalysis. He said that he is seeing patients now for about 10 hours a week. The Committee inquired if he was aware that the Department of Health had indicated that they received two complaints about him in his current psychotherapy practice. He responded, "I don't know if I'm aware of them or not. One, perhaps, could be from P. I'm not sure of the other." The Committee asked about the assertions in the Peer Committee's report that he wanted to have his license restored for "vanity" reasons. Dr. Bryant said that he did use the word "vanity" but felt that the prosecutor put his words in a negative connotation. He told the Committee that he felt it was "pretty normal to take pride in getting one's license back."

The Committee asked Dr. Bryant if he was aware of the importance of reeducation. He responded that he thought that since he only wanted to practice psychotherapy, it was not necessary. He said that he has had no recent pharmacology training but if questions of medication arose with his patients, he would refer them to someone else who was more current. Dr. Bryant reported that some of his current patients are taking "medications prescribed elsewhere." He indicated that if his license were restored, he "didn't think he would get involved socially with his patients." Dr. Bryant said, "I'll behave."

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 Peer Committee that Dr. Bryant did not make a compelling case for the restoration of his license. The COP agrees that he has "demonstrated no real remorse nor any real attempt at continuing education." Dr. Bryant continues to stress that he is only interested in practicing psychotherapy, and the COP notes that he does not need his physician license restored to engage in that practice. Although the record reflects varying accounts of whether Dr. Bryant has indicated that he wants his license restored for "vanity" and/or "insurance" reasons, the COP believes that neither of those reasons is sufficient, in itself or combined, to warrant restoration. The COP finds that Dr. Bryant did not demonstrate that he truly understands the significance of his misconduct, the boundary issues involved, and the potential danger in which he placed his patients. Although he saw a psychiatrist for many years and is now seeing a psychotherapist, the Committee notes that his only understanding from those sessions is that he is "too cooperative with requests people make." When asked what diagnosis his current psychotherapist gave him, Dr. Bryant responded, "I didn't ask." The COP finds that Dr. Bryant failed to demonstrate that the public would not be in danger were his license restored.

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

Johanna Duncan-Poitier, Chair

Kathy A. Ahearn

Frank Muñoz





# 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

**JESSE BRYANT**

**REPORT OF  
THE PEER  
COMMITTEE  
CAL. NO. 16626**

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

-----X

Applicant, JESSE BRYANT, was authorized to practice as a  
physician in the State of New York by the New York State Education  
Department.

## PRIOR DISCIPLINARY PROCEEDING

Applicant, in 1988, began treating patient A.G. for an anxiety  
disorder. His treatment included prescribing Valium as well as  
other drugs. He and A.G. became closely personally involved, and  
upon her request, he prescribed Vicodin at about 20 to 40 tablets  
daily. After he and A.G. became personally involved, he would  
visit her every day, after work, at her home. He was aware that  
A.G. was using Cocaine at the time that he was treating her. He  
was aware that the drugs prescribed for A.G. were excessive.

JESSE BRYANT (16626)

Applicant, from 1977 to 1984, also treated a male patient, D.A., also for an anxiety disorder. The drugs prescribed for this patient were excessive in that they were prescribed for too long a period of time. Such drugs should only be prescribed for a short period of time.

#### THE APPLICATION

On December 21, 1994 applicant petitioned for the restoration of his license to practice as a physician in the State of New York.

In his petition applicant states:

"I hereby apply to have my medical license restored. The problems which led to loss of my license have been corrected. I can provide good quality medical services. Since I lost my license I have maintained my skills by continuing in practice as an unlicensed psychotherapist. From December 1989 to the present I have been seeing a psychiatrist, Dr. Neil Goldman, who has treated my personal problems and supervised my patient care."

#### PEER PANEL REVIEW

On January 30, 1998, the Peer Panel met to review the application in this matter. Applicant appeared and elected to proceed without an attorney. The Department was represented by Franklyn Perez, Esq.

The Chairperson opened the meeting by stating that the Peer Panel had read the full application and all supporting documentation before the meeting. The Chairperson then had everyone in the meeting introduce themselves.

The parties did not make opening statements. Applicant presented two pages regarding continuing education at the meeting which are made a part of the material herein.

JESSE BRYANT (16626)

Applicant stated that he has been practicing as an unlicensed psychotherapist since he lost his license.

Applicant stated that he had been seeing a psychiatrist once a week for eight years up until September of 1997 and has learned not to become too familiar with patients. Applicant no longer wants to prescribed drugs but just do psychotherapy. Applicant said his main reason to get his license back is "vanity". He has never told his sister or his son that he lost his license. (Applicant had previously stated to an investigator that he wanted his license so his patients could use their insurance plans to pay his fees).

Upon questioning applicant stated that his current patients are mostly the remnants of his former practice.

Regarding CME applicant has taken two courses and is taking another. Applicant does not read the medical journals and has not taken any training regarding addiction or drugs.

Applicant stated that he did not have a sexual relationship with patient A.G. Applicant upon further questioning stated that he did not tell the people who wrote affidavits on his behalf about patient D.A. because he did not agree with the finding of guilt regarding D.A.

Applicant was then questioned further regarding his relationship with A.G.

Applicant stated that he would avoid any recurrence of his prior misconduct by not prescribing any drugs. He would refer patients needing drugs to others. He does not feel strong enough to be in a position of prescribing drugs.

JESSE BRYANT (16626)

Applicant stated that he did not feel remorseful but realized that he "messed up".

There was then further questioning of applicant by the panel.

The parties then made closing statements.

Applicant asked that his license be restored.

Mr. Perez opposed restoration of licensure because applicant had not met his burden.

#### RECOMMENDATION

We unanimously recommend that the application herein not be granted and that the revocation of applicant's license to practice medicine in the State of New York not be stayed.

Applicant has demonstrated no real remorse nor any real attempt at continuing education.

He seems sorry for the fact that he "messed up", not for the flaws in his practice. He did not tell the people who wrote affidavits on his behalf about patient D.A. because he does not accept his guilt in that regard.

While we recognize that applicant has attempted rehabilitation through therapy, it does not seem to have prepared him for the practice of medicine.

Further, applicant's "vanity" is no reason to restore his medical license.

The record herein does not in any way compel this panel to recommend restoration of licensure.

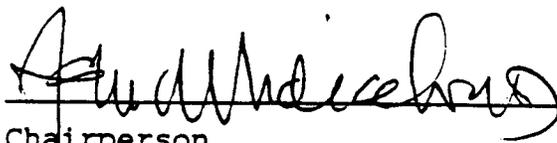
JESSE BRYANT (16626)

Respectfully submitted,

JOHN W.V. CORDICE, M.D., JR., Chairperson

JOYCE G. BOYCE, M.D.

DELORES D. RIGGINS, Public Member

  
Chairperson

11/12/78  
Dated





# The University of the State of New York

IN THE MATTER  
of the  
Disciplinary Proceeding  
against  
JESSE BRYANT

No. 11347

who is currently licensed to practice  
as a physician in the State of New York.

---

## REPORT OF THE REGENTS REVIEW COMMITTEE

JESSE BRYANT, hereinafter referred to as respondent, was licensed to practice as a physician in the State of New York by the New York State Education Department.

The instant disciplinary proceeding was properly commenced and on February 8 and February 15, 1990 hearings were held before a hearing committee of the State Board for Professional Medical Conduct. A copy of the statement of charges is annexed hereto, made a part hereof, and marked as Exhibit "A".

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".

The hearing committee concluded that respondent was guilty of the first through eighth specifications of the charges to the extent indicated in its report, and not guilty of the ninth through

JESSE BRYANT (11347)

twelfth specifications of the charges. The hearing committee recommended that respondent's license to practice as a physician in the State of New York be revoked.

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

On November 7, 1990 respondent appeared before us in person and was represented by an attorney, Jerome Karp, Esq., who appeared before us and presented oral argument on respondent's behalf. Roy Nemerson, Esq., presented oral argument on behalf of the Department of Health.

Petitioner's written recommendation, which is the same as the Commissioner of Health's recommendation, as to the measure of discipline to be imposed, should respondent be found guilty, was that respondent's license to practice as a physician in the State of New York be revoked.

Respondent's written recommendation as to the measure of discipline to be imposed, should respondent be found guilty, was: supervised probation for a period of two years, with continued psychiatric treatment.

We have considered the record as transferred by the Commissioner of Health in this matter, as well as respondent's

JESSE BRYANT (11347)

October 24, 1990 letter with an attached letter written by Dr. Neil Goldman, petitioner's October 25, 1990 letter, respondent's October 31, 1990 letter, and the November 2, 1990 letter forwarded to the parties herein on our behalf.

We note that the charged conduct concerning patient B took place from August, 1977 through August, 1987. Any conduct that occurred prior to October 1, 1977 cannot support a charge of failing to maintain records (eighth specification) under 8 NYCRR §29.2(a)(3), since that regulatory provision did not come into existence until October 1, 1977. It is by now axiomatic that a respondent cannot be found guilty of professional misconduct when the conduct charged occurred before the regulation defining the conduct as unprofessional conduct was enacted. Gould v. Board of Regents, 103 A.D.2d 897 (3d Dep't 1984); Nadell v. Ambach, 136 A.D.2d 804 (3d Dep't 1988). We reject any conduct occurring prior to October 1, 1977 as forming a basis for sustaining guilt under the eighth specification of the charges.

We unanimously recommend the following to the Board of Regents:

1. The hearing committee's 13 findings of fact and recommendation as to the measure of discipline be accepted, and the Commissioner of Health's recommendation as to those findings of fact and recommendation be accepted;

2. The hearing committee's conclusions as to the question of respondent's guilt be accepted, except that the hearing committee's conclusion that any conduct occurring prior to October 1, 1977 supports the charge of failing to maintain records under the eighth specification not be accepted, and the Commissioner of Health's recommendation as to the hearing committee's conclusions be accepted to the same extent that the hearing committee's conclusions are accepted, as aforesaid;
3. Respondent be found guilty, by a preponderance of the evidence, of the first through eighth specifications of the charges to the extent indicated in the hearing committee report, as modified with regard to the eighth specification by this Regents Review Committee report with respect to any conduct occurring prior to October 1, 1977, and not guilty of the ninth through twelfth specifications of the charges; and
4. Respondent's license to practice as a physician in the State of New York be revoked upon each specification of the charges of which we recommend respondent be found guilty.

JESSE BRYANT (11347)

Respectfully submitted,

GERALD J. LUSTIG, M.D.

MELINDA AIKINS BASS

PATRICK J. PICARIELLO

  
Chairperson

Dated: January 8, 1991



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

-----X  
IN THE MATTER : STATEMENT  
OF : OF  
JESSE BRYANT, M.D. : CHARGES  
-----X

JESSE BRYANT, M.D., the Respondent, was authorized to practice medicine in New York State on August 8, 1957 by the issuance of license number 079575 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period beginning January 1, 1989 and ending December 31, 1991 from [REDACTED]

**FACTUAL ALLEGATIONS**

- A. On or about February 18, 1983, Respondent, a psychiatrist, undertook the care and treatment of Patient A (identified in Appendix A), a 37 year old woman, at his office at [REDACTED]. Patient A had, at that time, been taking 10 Didrex (benzphetamine hydrochloride) per day, for "energy," taking Valium, and drinking. Patient A also used Cocaine.

1. During the period beginning on or about February 18, 1983 and continuing until November of 1987, Respondent inappropriately prescribed drugs for Patient A including variously, Valium, Ativan, and Elavil.
  
2. During the period beginning on or about September 22, 1987 and continuing until approximately May of 1989, Respondent inappropriately prescribed or dispensed Vicodin (hydrocodone bitartrate, an opioid analgesic and antitussive) to Patient A at a rate averaging at least 20 tablets per day, and, at times, at a rate of 40 tablets per day. Respondent knowingly prescribed and dispensed this drug without a proper medical purpose.
  
3. Respondent provided Patient A with money, knowing that she used that money to purchase approximately 10-15 bags of heroin.
  
4. Respondent failed to obtain and note sufficient diagnostic and evaluative information regarding Patient A's condition to warrant the initiation and continuation of the alleged treatment prescribed and dispensed for Patient A.

B. During a period beginning on or about August 15, 1977 and ending on or about August 25, 1987, Patient B was under the care and treatment of Respondent at his medical office. Patient B, a man who was approximately 26 years old at the beginning of this period, was diagnosed by Respondent as suffering from anxiety neurosis.

1. Every week between August 1977 and December 1977, Respondent inappropriately prescribed Seconal 100mg #7 and Valium 10mg #56 for Patient B.
2. Every week between January 1978 and December 1979, Respondent inappropriately prescribed Seconal 100mg #7, Valium 10mg #28, and Tranxene 15mg #21 for Patient B.
3. Every week between December 1979 and October 1984, Respondent inappropriately prescribed Seconal 100mg #7, Valium 10mg #28, Ativan 2mg #21 and propoxyphene hcl (Darvon) 65 mg #12 for Patient B.
4. Every week between October 1984 and August 1987 Respondent inappropriately prescribed Seconal

100mg #7, Valium 10mg #28, and Ativan 2mg #521  
for Patient B.

5. Respondent knowingly prescribed these drugs to Patient B without a proper medical purpose.
6. Respondent failed to refer Patient B to any detoxification or drug rehabilitation program, or to note such a referral.
7. Respondent failed to obtain and note sufficient diagnostic and evaluative information regarding Patient A's condition to warrant the initiation and continuation of the alleged treatment prescribed for Patient B.

### SPECIFICATION OF CHARGES

#### FIRST SPECIFICATION

##### **PRACTICING THE PROFESSION WITH NEGLIGENCE**

The Respondent is charged with practicing the profession with negligence on more than one occasion within the meaning of N.Y. Educ. Law Section 6509(2) (McKinney 1985), in that Petitioner charges that Respondent has committed two or more of the following:

1. The facts in Paragraphs A and A1-4,  
and/or the facts in Paragraphs B and  
B1 through 7.

### SECOND SPECIFICATION

#### **PRACTICING THE PROFESSION WITH INCOMPETENCE**

The Respondent is charged with practicing the profession with incompetence on more than one occasion within the meaning of N.Y. Educ. Law Section 6509(2) (McKinney 1985), in that Petitioner charges that Respondent committed two or more of the following:

2. The facts in Paragraphs A and A1-4,  
and/or the facts in Paragraphs B and  
B1-7.

### THIRD THROUGH FOURTH SPECIFICATIONS

#### **PRACTICING WITH GROSS NEGLIGENCE**

The Respondent is charged with practicing the profession with gross negligence within the meaning of N.Y. Educ. Law Section 6509(2) (McKinney 1985) in that Petitioner charges:

3. The facts in Paragraphs A and A1-4.
4. The facts in Paragraphs B and B1-7.

**FIFTH THROUGH SIXTH SPECIFICATIONS**

**PRACTICING WITH GROSS INCOMPETENCE**

The Respondent is charged with practicing the profession with gross incompetence within the meaning of N.Y. Educ. Law Section 6509(2) (McKinney 1985) in that Petitioner charges:

5. The facts in Paragraphs A and A1-4.
6. The facts in Paragraphs B and B1-7.

**SEVENTH THROUGH EIGHTH SPECIFICATIONS**

**UNPROFESSIONAL CONDUCT/FAILING TO MAINTAIN RECORDS**

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6509(9) (McKinney 1985) by committing unprofessional conduct as defined by the Board of Regents in 8 N.Y.C.R.R. 29.2(a)(3) (1987), by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient in that Petitioner charges:

7. The facts in Paragraphs A and A1-4.
8. The facts in Paragraphs B and B1-7.

**NINTH THROUGH TENTH SPECIFICATIONS**

**PRACTICING FRAUDULENTLY**

The Respondent is charged with practicing the profession

fraudulently within the meaning of N.Y. Educ. Law  
Section 6509(2) (McKinney 1985) in that Petitioner charges:

9. The facts in Paragraphs A and A1-4.
10. The facts in Paragraphs B and B1-7.

**ELEVENTH AND TWELFTH SPECIFICATIONS**

**UNPROFESSIONAL CONDUCT/UNNECESSARY TREATMENT**

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6509(9) (McKinney 1985) by committing unprofessional conduct as defined by the Board of Regents in 8 N.Y.C.R.R. 29.2(a)(7) (1987), by ordering excessive treatment not warranted by the condition of the patient, in that Petitioner charges:

11. The facts in Paragraphs A and A1-4.
12. The facts in Paragraphs B and B1-7, to the extent those facts post-date October 1, 1977.

DATED: New York, New York

January 9, 1990



CHRIS STERN HYMAN  
Counsel  
Bureau of Professional Medical  
Conduct



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

-----X  
IN THE MATTER :

OF :

JESSE BRYANT, M.D. :

REPORT BY

THE HEARING

COMMITTEE  
-----X

TO: The Honorable David Axelrod, M.D.  
Commissioner of Health of the State of New York

The undersigned Hearing Committee (the Committee) consisted of Samuel H. Madell, M.D., (Chairman), Erwin Lear, M.D., Ms. Olive M. Jacob. The Committee was duly designated, constituted and appointment by the State Board for Professional Medical Conduct (the Board). The Administrative Officer was Harry Shechtman, Administrative Law Judge.

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

The Committee has considered the entire record herein and makes this Report of its Findings of Fact, Conclusions and Recommendations to the New York State Commissioner of Health.

PROCEDURAL HISTORY

Statement of Charges dated:	January 9, 1990
Notice of Hearing and Statement of Charges served upon Respondent:	January 10, 1990
Notice of Hearing returnable:	February 8, 1990
Place of Hearing:	8 East 40th Street New York, New York
Answer:	None filed
Bureau of Professional Medical Conduct appeared by:	Roy Nemerson, Esq. Associate Counsel
Respondent appeared by:	Jerome Karp, P.C.
Hearings held on:	February 8, 1990 February 15, 1990
Record closed on:	February 15, 1990
Deliberations held on:	March 8, 1990

STATEMENT OF THE CASE

The Respondent, a psychiatrist, is charged with:

First Specification: Practicing the profession with negligence on more than one occasion. Education Law Section 6509(2)

Second Specification: Practicing the profession with incompetence on more than one occasion. Education Law Section 6509(2)

Third through Fourth Specification: Practicing the profession with gross negligence. Education Law Section 6509(2)

Fifth through Sixth Specifications: Practicing the profession with gross incompetence. Education Law Section 6509(2)

Seventh through Eighth Specification: Unprofessional conduct in failing to maintain records. Education Law Section 6509(9), and 8 NYCRR Section 29.2(a)(3).

Ninth through Tenth Specifications: Practicing the profession fraudulently. Education Law Section 6509(2)

Eleventh and Twelfth Specification: Committing unprofessional conduct by ordering excessive treatment not warranted by the condition of the patient. Education Law Section 6509(9) and 8 NYCRR Section 29.2(a)(7)

The charges are based upon the care and treatment of two patients, as set forth in factual allegations, A through A4, and B through B7.

Witness on behalf of Petitioner:

Howard Hess, M.D., expert in psychiatry

Witnesses on behalf of Respondent:

Neil S. Goldman, M.D., expert in psychiatry

Jesse Bryant, M.D., the Respondent

FINDINGS OF FACT

Numbers in parentheses refer to transcript page numbers or exhibits. These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. The Hearing Committee unanimously reached each of the following findings of fact unless otherwise noted.

1. JESSE BRYANT, M.D., the Respondent, was authorized to practice medicine in New York State on August 8, 1957 by the issuance of license number 079575 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the

period beginning January 1, 1989 and ending December 31, 1991 from  
[REDACTED]

2. On or about February 18, 1983, Respondent, a psychiatrist, undertook the care and treatment of Patient A (identified in Appendix A), a 37 year old woman, at his office at 45 Fifth Avenue, New York, New York. Patient A had, at that time, been taking 10 Didrex (benzphetamine hydrochloride) per day, for "energy," taking Valium, and drinking. Patient A also used Cocaine. (Ex. 2; T: 148, 149, 174)

3. During the period beginning on or about February 18, 1983 and continuing until November of 1987, Respondent prescribed drugs for Patient A including variously, Valium, Ativan, and Elavil. (Ex. 2; T: 34-36)

4. During the period beginning on or about September 22, 1987 and continuing until approximately May of 1989, Respondent prescribed and dispensed Vicodin (hydrocodone bitartrate, an opioid analgesic and antitussive) to Patient A at a rate averaging at least 20 tablets per day, and, at times, at a rate of 40 tablets per day. The Respondent admitted that during the period December 1987 to May 1989 he visited Patient A at her home and gave her Vicodin, which he obtained from a drug mail order company. He switched from prescriptions to dispensing, at least

partly because of concern that the pharmacy might become suspicious. (T. 40, 93 - 96).

5. Patient A's medical chart does not reflect either a diagnosis, treatment plan or progress notes. The Respondent did not record the dispensing of Vicodin during the home visits because he did not want to put high doses like that in the record and because they were in excess of the normal dose (T. 95 - 96; Ex. 2).

6. On the first page of Exhibit 4 the Respondent stated:

"During the past 1 1/2 years I have dispensed large amounts of a medication called Vicodin to (Patient A), amounts averaging about 20 tablets per day, going as high as 40 per day on occasion. I started prescribing small amounts of this medication and she gradually increased her usage. I tried to get her to reduce her usage but she was unable to do it. She went into St. John's Rockaway hospital August 1988 to detox but was unsuccessful because they wanted her to go on methadone and she was unwilling. The same usage continued until the present, when she finally consented to go on a methadone program, which she did one week ago. During all the above I have given her money out of

friendship and out of guilt for the harm I have done by giving her excessive amounts of Vicodin."

signed by Jesse Bryant, M.D. (T. 108-109).

7. In May 1989, the Respondent surrendered his DEA license and therefore had to cease prescribing controlled substances. (T. 166-169).

8. During a period beginning on or about August 15, 1977 and ending on or about August 25, 1987, Patient B was under the care and treatment of Respondent at his medical office. Patient B, a man who was approximately 26 years old at the beginning of this period, was diagnosed by Respondent as suffering from anxiety neurosis. (Ex. 3)

9. Every week between August 1977 and December 1977, Respondent prescribed Seconal 100 mg \$7 and Valium 10 mg \$56 for Patient B. (Ex. 3; Tr: 52)

10. Every week between January 1978 and December 1979, Respondent prescribed Seconal 100 mg \$7, Valium 10 mg \$28, and Tranxene 15 mg \$21 for Patient B. (Ex. 3; T: 52, 60, 61 and 161)

11. Every week between December 1979 and October 1984, Respondent prescribed Seconal 100 mg \$7, Valium 10 mg \$28, Ativan 2 mg \$21 and propoxyphene hcl (Darvon) 65 mg \$12 for Patient B. (Ex. 3; T: 52, 60, 61 and 161)

12. Every week between October 1984 and August 1987 Respondent prescribed Seconal 100 mg \$7, Valium 10 mg \$28, and Ativan 2 mg \$21 for Patient B. (Ex. 3; T: 52, 50, 61 and 161)

13. Patient B's medical chart does not contain a treatment plan or progress notes which reflect the patient's condition or response to treatment. (Ex. 3)

#### CONCLUSIONS

All of the conclusions hereinafter set forth have been voted upon unanimously by the Committee.

#### First and Second Specifications:

Practicing the profession with negligence and incompetence on more than one occasion.

These specifications are sustained upon the ground that Dr. Bryant inappropriately prescribed controlled substances without proper medical indications for Patients A and B in amounts and for periods of time that exceeded the usual therapeutic standards and based upon the testimony of Dr. Hess.

#### Third through Sixth Specifications:

Practicing the profession with gross negligence and gross incompetence.

These specifications are sustained. The treatment of the two patients by Dr. Bryant betrays a very serious lack of consideration by him of the dire consequences that could result from the administration of the controlled substances in the amounts, combinations and length of time during which they were prescribed. The Respondent displayed a lack of adequate knowledge of the pharmacological properties of the medications he prescribed for general medical, non-psychiatric purposes, as well as an indifference to their effect on the patient.

Seventh and Eighth Specifications, Unprofessional Conduct/Failing to Maintain Records:

These specifications are sustained. The records maintained by the Respondent did not accurately reflect the ongoing evaluation and treatment planning for either of the two patients. The patients' charts are eloquent evidence of this failure.

Ninth and Tenth Specification, Practicing Fraudulently:

These charges are not sustained. There is no evidence of any intent to act fraudulently nor do the acts complained of come within the purview of fraudulent practice with the meaning of Section 6509(2) of the Education Law.

Eleventh and Twelfth Specifications, Unprofessional Conduct/Unnecessary Treatment:

These charges are not sustained. There is no evidence that the Respondent ordered excessive treatment not warranted by the condition of the patients within the purview of Section 6509(9) of the Education Law and 8 NYCRR 29.2(a)(7).

RECOMMENDATION

The Committee very carefully considered the recommendation for the sanctions to be imposed upon the Respondent, and in view of the Findings of Fact and Conclusions arrived at, it feels that the Respondent, in the practice of his profession does not come up to the standards demanded of a physician. Furthermore the committee finds no mitigating circumstances to affect its recommendation. In view of the foregoing the committee unanimously recommends that Dr. Jesse Bryant's license to practice medicine be revoked.

DATED: New York, New York

*July 2*, 1990

Respectfully submitted,

  
Samuel H. Madell, M.D., Chairman

Erwin Lear, M.D.  
Olive M. Jacob



STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT  
-----X  
IN THE MATTER :  
OF :  
JESSE BRYANT, M.D. :  
-----X

COMMISSIONER'S  
RECOMMENDATION

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

A hearing in the above-entitled proceeding was held on February 8, 1990 and February 15, 1990. Respondent, Jesse Bryant, M.D., appeared by Jerome Karp, Esq., P.C. The evidence in support of the charges against the Respondent was presented by Roy Nemerson, Esq.

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

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

- A. The Findings of Fact and Conclusions of the Committee should be accepted in full;
- B. The Recommendation of the Committee should be accepted; and
- C. The Board of Regents should issue an order adopting and incorporating the Findings of Fact and Conclusions and further adopting as its determination the Recommendation described above.

The entire record of the within proceeding is transmitted with this Recommendation.

DATED: Albany, New York

*September 7, 1990*

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