THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK

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February 24, 2005

Graciano Evans Clause, R.P.A.
164 East 42nd Street – Apt. 2
Brooklyn, New York 11203

Re: Application Restoration

Dear Mr. Clause:

Enclosed please find the Commissioner's Order regarding Case No. CP-04-20 which is in reference to Calendar No. 21075. 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

GUSTAVE MARTINE
Supervisor

DJK/GM/er

The University of the State of New York
Education Department

IN THE MATTER

of the

Application of GRACIANO EVANS CLAUSE for restoration of his license to practice as a registered physician assistant in the State of New York.

Case No. CP-04-20

It appearing that the license of GRACIANO EVANS CLAUSE, 164 East 42nd Street, Apt. 2, Brooklyn, New York 11203, to practice as a registered physician assistant in the State of New York, was revoked by the Administrative Review Board of the State Board for Professional Medical Conduct, effective on or about November 9, 1999, and he having petitioned the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 Committee and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on December 17, 2004, it is hereby

ORDERED that the petition for restoration of License No. 004907, authorizing GRACIANO EVANS CLAUSE to practice as a registered physician assistant in the State of New York, is denied, but that the Order of Revocation of said license is stayed for three years, and said GRACIANO EVANS CLAUSE is placed on probation for a period of three years under specified terms and conditions, and upon successful completion of the probationary period, his license to practice as a registered physician assistant in the State of New York be fully restored.

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 16th day of February, 2005.

Commissioner of Education

Case No. CP-04-20

It appearing that the license of GRACIANO EVANS CLAUSE, 164 East 42nd Street, Apt. 2, Brooklyn, New York 11203, to practice as a registered physician assistant in the State of New York, having been revoked by the Administrative Review Board of the State Board for Professional Medical Conduct, effective on or about November 9, 1999, 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 Committee and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on December 17, 2004, it was

VOTED that the petition for restoration of License No. 004907, authorizing GRACIANO EVANS CLAUSE to practice as a registered physician assistant in the State of New York, is denied, but that the Order of Revocation of his license be stayed for three years, and said GRACIANO EVANS CLAUSE be placed on probation for a period of three years under specified terms and conditions, and upon successful completion of the probationary period, his license to practice as a registered physician assistant in the State of New York shall be fully restored.

Case number
CP-04-20
November 19, 2004

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

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

Re: Graciano Evans Clause

Not Represented by an Attorney

Graciano Evans Clause, 164 East 42nd Street, Apt. 2, Brooklyn, New York 11203 petitioned for restoration of his registered physician assistant license. The chronology of events is as follows:

01/04/95	Issued license number 004907 to practice as a registered physician assistant in New York State.
02/16/99	Charged with professional misconduct by Department of Health.
07/21/99	Hearing Committee of Office of Professional Medical Conduct revoked registered physician assistant license.
08/06/99	Effective date of revocation.
11/02/99	Administrative Review Board for Professional Medical Conduct sustained Hearing Committee's determination to revoke license.
07/22/02	Submitted application for restoration of registered physician assistant license.
11/05/03	Peer Committee restoration review.
06/24/04	Report and recommendation of Peer Committee. (See "Report of the Peer Committee.")
08/31/04	Committee on the Professions restoration review.
11/19/04	Report and recommendation of Committee on the Professions. (See "Report of the Committee on the Professions.")

Disciplinary History. (See attached disciplinary documents.) On February 16, 1999, the Department of Health charged Mr. Clause with 10 specifications of professional misconduct, specifically, fraudulent practice, practicing beyond scope and without proper supervision, failure to comply with law, and moral unfitness. The charges alleged that he wrote 79 prescriptions between July 1997 and October 1997 by falsely indicating on the prescriptions, by means of an ink stamp, a supervising physician who was not the actual supervising physician. Additionally, the charges alleged that he intentionally misrepresented and/or concealed known facts on his Curriculum Vitae and on employment applications to St. Barnabas Hospital, Council Health Center, and Bronx-Lebanon Hospital and falsely denied to the Office of Professional Medical Conduct (OPMC) those misrepresentations. Also, the charges alleged that he removed medical supplies from a hospital and requested samples of a drug from a pharmaceutical salesman without authority or permission. On July 21, 1999, a Hearing Committee of the State Board for Professional Medical Conduct sustained the charges related to the prescriptions he wrote with a false name of the supervising physician and the charges related to the misrepresentations he made on his application and Curriculum Vitae to St. Barnabas Hospital. The charges related to the misrepresentations he made to Council Health Center, Bronx-Lebanon Hospital, and OPMC and the charges related to his removal of medical supplies and obtaining sample drugs were dismissed. Mr. Clause appealed the Hearing Committee's determination of penalty to an Administrative Review Board for Professional Medical Conduct. The Review Board affirmed the Hearing Committee's determination that Mr. Clause committed professional misconduct and affirmed the Committee's determination revoking Mr. Clause's license. The revocation was effective August 6, 1999.

Mr. Clause submitted an application for restoration of his registered physician assistant license on July 22, 2002.

Recommendation of the Peer Committee. (See attached "Report of the Peer Committee.") The Peer Committee (Diamond, Riggins, Cohen) met with Mr. Clause on November 5, 2003 to review his application for restoration. In its report, dated June 24, 2004, the Committee voted unanimously to recommend that the order of revocation of his license be stayed and that he be placed on probation for three years under specified terms and conditions. During the probationary period, he could practice only in an Article 28 facility and only under the personal supervision of a licensed physician in his place of employment.

Recommendation of the Committee on the Professions. On August 31, 2004, the Committee on the Professions (Duncan-Poitier, Munoz, Earle) met with Mr. Clause to discuss his application for restoration. An attorney did not accompany him.

The Committee asked Mr. Clause to explain what led to the loss of his license. He replied, "I accept full responsibility for what took place in the clinics. I can't blame anyone else for my actions." He said he failed to accurately list his jobs and time periods of prior employment on applications for employment. In addition, he stated that he used a fraudulent signature stamp for prescriptions and that it was "totally wrong." The Committee asked, "Why did you do this?" Mr. Clause said that he was required to

work in an underserved area after completing his physician assistant program because of the conditions of a scholarship he received. At first, he reported that the Department of Health indicated there were no openings in the area where he lived, but eventually he was able to get a position at St. Claire's Hospital after many part-time positions that did not satisfy his service obligation. He indicated that at the time the hospital was converting from the use of registered physician assistants to the use of nurse practitioners. He said that he and other registered physician assistants were on a "straight salary" but were required to work overtime for 20 hours per week and couldn't get paid for it. Mr. Clause said that the hospital told him his only choice was to leave if he didn't like the way he was getting paid.

Mr. Clause said that, after other short-term positions, Council Health, Inc., hired him as its first registered physician assistant but that he "fraudulently left off some things on the application." He reported that he was hired to replace a physician at the practice and assumed responsibility for that physician's former patients. He indicated that one of the physicians on staff did not want a registered physician assistant hired and refused to work with him. He said that the uncooperative physician was upset because Mr. Clause had cancelled 10 prescriptions for the patients of the physician who had left because he could find no record of a workup or plan. Mr. Clause reported that this physician refused to sign any of his charts and would not sign any of the prescriptions Mr. Clause wrote for his patients. He told the Committee that he reported the physician's behavior to the Medical Director, but the physician still refused to work with him. He indicated that another staff physician worked with him and, on occasion, left him five presigned prescriptions that he could use. Mr. Clause said that when the uncooperative physician (as reported by respondent) was the only physician in the office, he could not get his signature on any prescriptions for patients that he felt needed them. He indicated that on some occasions he did go to the medical supply room and obtain drugs for his patients. He reported he still had a signature stamp from a physician where he was previously employed and used that stamp for a few weeks at Council Health, Inc. He said that he only used it when he could not get the uncooperative physician to sign his prescription forms for patients that he felt needed appropriate medication at the time. Mr. Clause said that at that time he was under a lot of stress to maintain his job. He indicated that he could not leave the position as he would have to find one that also qualified as an underserved area. He explained that he had already taken many part-time jobs which did not satisfy his service requirement and knew it would be difficult to find another qualifying full-time position. Mr. Clause said that he did not want to have to tell his wife that he didn't have a job, especially, since he now had children to take care of. He told the Committee that now, looking back, he realized that he had other options, which he was unaware of at the time.

The Committee asked, "What do you take full responsibility for?" He replied that he lied on applications for employment and used a physician's signature stamp fraudulently. The Committee asked Mr. Clause if he realized at the time that he was risking his license when he used the signature stamp. He replied, "Yes, now. At the time, he thought that maybe he wouldn't get caught." Mr. Clause said, "I don't know why I was so stupid. Maybe, it was the stress." He discussed how he felt he was going through a nightmare at the time where he couldn't get the uncooperative physician to

sign prescriptions for his patients that he felt truly needed the medications. He said that if he were confronted with a similar situation in the future where physicians did not want him on the staff, he would not take the position. At the time, Mr. Clause indicated that he thought, "If I stick it out, maybe the guy would come around."

The Committee asked Mr. Clause what he felt members could say to the Board of Regents about why they were recommending restoration when he thought so little about healthcare that he used a fraudulent stamp. Mr. Clause responded by saying that he always thought highly of patients and only used the stamped prescriptions when he strongly felt the medications were needed at that time. He reported that ninety percent of the stamped prescriptions were used when the cooperative physician was on vacation. He said that as a registered physician assistant just starting out in practice he was probably overzealous and immature. He indicated that he was fearful that his patients could be harmed if they did not receive the medications they needed. Mr. Clause said that he has no desire to be faced with charges of professional misconduct again. He indicated that he now realizes that there is no need to "elevate my Resume" or lie on applications for employment, as he believes he has been an excellent registered physician assistant wherever he has worked. He told the Committee, "When I go for any job, I will give a copy of my restoration report."

The Committee asked, "What is your level of competence? Mr. Clause replied, "I don't want to come off as being arrogant but I am very good at what I do. I know my skills and my limitations." He mentioned his many continuing medical education courses and the recent renewal of his national certification. He described his love of science and teaching activities.

Mr. Clause said that after losing his license, he received counseling for two years from the pastor at his church. He indicated that he could not afford a professional counselor. He said that his pastor worked with him to better understand what he did, why he did it, and alternative actions he could follow. He said he now continues the meetings on an infrequent basis. Mr. Clause indicated that every other month he holds a discussion session at the church for its members on a specific medical topic.

Mr. Clause asked the Committee to please see him for the "person that I am." He said, "Sometimes, being good at what you do can get you into as much trouble as being incompetent. I'm a perfectionist." He reported that he is a portrait artist and teacher, but that his passion is science. He told the Committee that he would always have to live with the shame of what he did but has chosen not to hide it. He stressed that the misconduct would never recur as he now has three children and would never do anything to jeopardize his family.

The overarching concern in all restoration cases is public protection. Education Law §6511 gives the Board of Regents discretionary authority to make the final decision regarding applications for the restoration of a license to practice as a registered physician assistant in New York State. 8NYCRR §24.7(2) charges the Committee on the Professions (COP) with submitting a recommendation to the Board of Regents on restoration applications. Although not mandated in law or regulation, the Board of

Regents has instituted a process whereby a Peer Committee first meets with an applicant for restoration and provides a recommendation to the COP. A former licensee petitioning for restoration has the significant burden of satisfying the Board of Regents that there is a compelling reason that licensure should be granted in the face of misconduct so serious that it resulted in the loss of licensure. There must be clear and convincing evidence that the petitioner is fit to practice safely, that the misconduct will not recur, and that the root causes of the misconduct have been addressed and satisfactorily dealt with by the petitioner. It is not the role of the COP to merely accept, without question, the arguments presented by the petitioner but to weigh and evaluate all of the evidence submitted and to render a recommendation based upon the entire record.

The COP concurs with the Peer Committee that Mr. Clause "has clearly demonstrated sincere remorse for his past actions, and he has sought to address the underlying reasons for his actions ..." Mr. Clause demonstrated an understanding of the root causes of his misconduct and the steps he has taken to make certain such misconduct would not recur were his license restored. Mr. Clause worked with his pastor for two years to look at the underlying reasons for his misconduct and to explore alternate options he could pursue if he finds himself in a similar situation today. The COP found Mr. Clause to be an intelligent, articulate, caring, and apparently competent registered physician assistant who now has a better understanding of the interrelationships and dynamics between and among physicians and registered physician assistants. He also appears to understand that he cannot substitute his judgment for that of the physician or other healthcare professionals with whom he works or under whose supervision he practices. As the Peer Committee pointed out, "... there have never been any concerns or complaints about the care he provided his patients – he never put his patients' health at risk." Mr. Clause has accepted full responsibility for his misconduct and was able to clearly articulate why his actions were wrong and demonstrated an understanding of the ethical considerations associated with being a registered physician assistant. The COP agrees with the Peer Committee that Mr. Clause has made significant efforts to keep his knowledge and skills current. The COP finds that Mr. Clause presented a compelling case for the restoration of his license at this time.

Therefore, after a careful review of the record and its meeting with him, the Committee on the Professions voted unanimously to concur with the recommendation of the Peer Committee that the order of revocation of Mr. Clause's license to practice as a registered physician assistant in New York State be stayed for three years, that he be placed on probation for three years under specified terms attached to the Report of the Peer Committee and labeled as Exhibit "A," and that upon satisfactory completion of the probationary period, his license be fully restored.

Johanna Duncan-Poitier, Chair

Frank Munoz

Steven Earle

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

GRACIANO EVANS CLAUSE

REPORT OF THE PEER COMMITTEE
CAL. NO. 21075

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

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GRACIANO EVANS CLAUSE, hereinafter known as the applicant, was previously licensed to practice medicine as a registered physician's assistant in the State of New York by the New York State Education Department on or about January 4, 1995. Said license was revoked by the New York State Department of Health, State Board of Professional Medical Conduct (BPMC), as the result of a professional misconduct proceeding. The applicant has applied for the restoration of his license.

BACKGROUND INFORMATION

The written application, supporting papers provided by the applicant and papers resulting from the investigation conducted by the Office of Professional Discipline (OPD) have been compiled by the prosecutor from OPD into a packet that has been

distributed to this Peer Committee in advance of its meeting and also provided to the applicant.

PRIOR DISCIPLINE PROCEEDINGS

Action by the State Board for Professional Medical Conduct:

BPMC Hearing Committee: On July 21, 1999, the BPMC Hearing Committee determined that the applicant was guilty of six of the ten specifications of professional misconduct with which he was charged, specifications 1, 2, 5, 6, 7, and 8. The BPMC Hearing Committee dismissed Specifications 3, 4, 9, and 10. Finally, the BPMC Hearing Committee determined that the applicant's license to practice as a registered physician's assistant in the State of New York should be revoked.

Professional Medical Conduct Administrative Review Board: On October 30, 1999, the Professional Conduct Administrative Review Board (ARB) considered the applicant's request for review of the determination of the Hearing Committee. The ARB unanimously affirmed the Hearing Committee's findings, determination on the charges and penalty of revocation.

Order of the Professional Medical Conduct Administrative Review Board: On November 2, 1999, the order enforcing the penalty of revocation was served by mail upon the applicant, to be effective no later than November 9, 1999.

Specifications of misconduct:

Applicant was charged with 10 specifications of committing professional misconduct, as follows:

- Specifications 1-4, committing professional misconduct as defined by N.Y. Education Law section 6530(2)(McKinney Supp. 1999), in that the applicant practiced the profession of medicine fraudulently or beyond its authorized scope;
- Specification 5, committing professional misconduct as defined by N.Y. Education Law section 6530(24)(McKinney Supp. 1999), by practicing beyond the scope permitted by law, and/or performing without adequate supervision professional services which the applicant was authorized to perform only under the supervision of a licensed professional;
- Specification 6, committing professional misconduct as defined by N.Y. Education Law section 6530(16)(McKinney Supp. 1999), by reason of his willful or grossly negligent failure to comply with substantial provisions of the regulations of the Department of Health regulating the practice of medicine by registered physician's assistants;
- Specifications 7-10, committing professional misconduct as defined by N.Y. Education Law section 6530(20)(McKinney Supp. 1999), by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice.

Nature of the misconduct: The applicant was charged based on the following acts:

- From July through October 1997, while employed as a registered physician's assistant (RPA) at the Council Health Center in New York City, the applicant wrote 79 prescriptions for 36 patients. The prescriptions falsely indicated that the applicant's supervising physician was S.D.* The applicant used an ink stamp imprinted with S.D.'s name on 24 of the prescriptions, falsely identifying S.D. as the applicant's supervising physician. Neither S.D. nor the Council had given the applicant permission to use S.D.'s name or stamp for this purpose. Although required to have his prescriptions countersigned by a supervising doctor, the applicant also failed to indicate the name of his actual supervising physician on any of the 79 prescriptions.
- The applicant misrepresented or withheld information on various employment applications and his curriculum vitae. He did not indicate that he had been employed at and terminated from various previous places of employment, on several employment applications and on his curriculum vitae. He also misrepresented the length of time he was employed at several hospitals.
- In about August 1998, during OPMC's investigation of the

*Initials rather than names may be used in this report when referring to persons other than the applicant, panel members, those representing the parties, and those that may appear in any annexed exhibit.

charged specifications, the applicant, with intent to deceive, falsely denied that he misrepresented and/or concealed facts concerning his work history.

APPLICATION FOR RESTORATION

As part of his petition for restoration, the applicant completed the New York State Education Department's (NYSED) standard application form. This application contained information and attachments as referred to, below:

Entries in the basic application form:

Continuing Education

The applicant listed over 325 hours of continuing education credits received for approximately 7 courses taken from 2001 through 2003 through various entities such as the National Commission on Certification of Physician Assistants, the American Heart Association, and the Auto-Digest Foundation of the California Medical Association. The certificates indicate that the applicant personally attended some of the courses and that others were correspondence courses. At the hearing, the applicant supplemented his written application with verification of additional continuing medical education (CME) credits which he earned.

Professional Rehabilitation Activities

The applicant maintained his National Commission on Certification of Physicians' Assistants (NCCPA) certification from September 2001 through December 2003. At the hearing, the

applicant provided verification from the NCCPA indicating that he has been re-certified. In March 2000, he acquired an Emergency Medical Technician license, which is active as of the date of his restoration application. From 1999 to the date of his restoration application, the applicant has regularly visited two nursing homes and provided counseling to the residents.

Submissions of Affidavits

The applicant submitted eight affidavits specifically addressing the issue of restoration of his license; three are from RPA's and two are from medical doctors. At the hearing, the applicant provided an updated affidavit from A.P., the pastor of his church.

Additional attachments to the application

The applicant also supplied a six-page typewritten statement, signed by him, in support of his application for restoration. In his typewritten statement, the applicant expressed remorse and explained the circumstances that led to the revocation of his license.

INVESTIGATIVE INFORMATION

The packet provided by OPD also contained the following additional information from the investigation that resulted from the filing of the application for restoration:

April 16, 2003 letter from Dennis Graziano, Director, Office of Professional Medical Conduct (OPMC)

This letter indicated OPMC's opposition to the restoration of the applicant's license to practice as a registered physician's assistant. The OPMC takes the position that "there is little evidence that the applicant fully understands the implications of violating his professional trust."

PEER COMMTTEE MEETING

On November 5, 2003, this Peer Committee met to consider this matter. The applicant appeared before us personally and was represented by Denise Buda, Esq. The Division of Prosecutions, Office of Professional Discipline, was represented by Ihenji B. Young, Esq.

On behalf of the applicant, Ms. Buda explained that the applicant acknowledged the seriousness of his misconduct, that he has taken full responsibility for his actions, that he has no excuse for his prior actions and blames only himself. Despite not having his license, the applicant has pursued other types of employment that allowed him to use his medical skills, and he has sought counseling that has provided him with an understanding of the reasons for his actions such that he can again be entrusted with the rights and privileges of licensure.

In his testimony before us, the applicant described his past misconduct. He explained that he lied on his curriculum vitae and on several job applications wherein he misrepresented the length

of time he was employed at some jobs and/or omitted places of employment from which he was terminated; used an ink-stamp from a previous place of employment that was impressed with his and a physician's license at his then-current place of employment without the permission of the physician or his current place of employment, and issued 79 prescriptions for 36 patients without proper supervisory permission. The applicant explained that he understood that he had deceived various places of employment as well as his patients by his actions, acknowledging that it was wrong to do so because "a facility should know fully about anyone they're hiring", that "it was incumbent upon [himself] to maintain integrity and [he] did not", and "faulted himself for [such actions] and the problems he brought my family, my wife, for the shame that I brought those who knew me."

The applicant explained that he ultimately sought counseling with his religious pastor, with whom he discussed his past actions over a period of approximately two years, from 2000-2002. After 2002, he continued to meet with his pastor informally at religious meetings or services. His pastor was able to enlighten him about the underlying problems that led to his actions and that there were other, appropriate ways to handle his problems. He has learned that there "isn't a job you can go to in this world that you are not going to encounter a problem", but that such problems no longer cause him the kind of stresses that led to his previous actions and that he has learned to "stay in the ball game" and regroup.

The applicant sought employment that would allow him to stay close to medicine so that he wouldn't lose his skills, and would serve as a complement to his attendance at CME conferences. He worked as an EKG technician and is currently employed as a teacher of science and social studies. He has acquired his New York City teacher certification to teach junior and high school biology. He has continued the volunteer work he began in 1996, performing it currently at a local nursing home, where he visits patients and offers spiritual counseling. He has participated in "health fairs" where he would speak about medical topics such as arthritis, diabetes and the value of exercise. The applicant explained that he continues his volunteer work because he loves doing it, but also because "that's what is needed and [he] has the skills and desire and opportunity to do it." He also obtained an emergency medical technician (EMT) license and has served in that capacity, enabling him to maintain his "physical skills" and through which he continues to demonstrate his medical competence to practice, with the hope that he might regain his RPA license.

Two witnesses testified on behalf of the applicant. C.D., a registered physician's assistant, attended the Harlem Hospital Assistants' program with the applicant. C.D. and the applicant attend medical conferences together and participate in community health fairs. C.D. has known the applicant more than 13 years and considers him to be a trustworthy friend, very honest in his dealings, and very dependable and reliable. She knows that the applicant has demonstrated remorse for his past actions. Based on

C.D.'s experience working with the applicant at St. Claire's Hospital, it is her opinion that he is a highly skilled RPA, cares greatly for his patients, and believes that his license to practice should be restored.

A.O., also a registered physician's assistant, testified on behalf of the applicant. They met in peer school in 1991 and became friends. A.O. visits the applicant and his family socially, and has attended professional conferences and performed volunteer work with him. A.O. believes that the applicant is very truthful, reliable, a good clinician and compassionate with his patients. She stated that she knows that the applicant has learned from his mistakes and deserves to have his license restored, especially since she considers his inability to practice as an RPA to be a loss to the profession.

On behalf of OPD, Ms. Young indicated that the Department would take no position concerning the applicant's restoration application.

RECOMMENDATION

We have reviewed the entire record in this matter, including the written materials received before and during our meeting. In arriving at our recommendation, we note that, in a licensure restoration proceeding, the burden is on the applicant to demonstrate that which would compel the return of the license. Greenberg v. Board of Regents of University of New York, 176 A.D. 2d, 1168, 575 N.Y.S. 2d 608, 609. In reaching our recommendation,

we consider whether the applicant demonstrates sufficient remorse, rehabilitation and re-education. However, we are not necessarily limited to such formulaic criteria but may consider other factors, particularly the seriousness of the original offense and, ultimately, our judgment as to whether the health and safety of the public would be in jeopardy should the application be granted.

The applicant has clearly demonstrated sincere remorse for his past actions, and he has sought to address the underlying reasons for his actions through counseling with his pastor. He has shown an understanding that his poor judgment compromised the integrity of his and others' practice and that he has learned that there are more appropriate ways to resolve problems that may arise at work. Despite his past actions, there have never been any concerns or complaints about the care he provided his patients -- he never put his patients' health at risk, he never injured a patient, and he did not personally benefit from any of his actions.

The applicant has demonstrated successful rehabilitation through his counseling with his pastor, through the affidavits provided in support of his application, and by the testimony offered by witnesses C.D. and A.O. Both witnesses stated that the applicant realized that he made serious mistakes and has since made efforts to correct them. They are in contact with him socially and professionally and together attend conferences and community events where the applicant's medical knowledge and skills can help others. Both witnesses testified to his

truthfulness and reliability, his skill and compassion with his patients, his value to the profession, and his efforts to maintain his practice skills with the goal of obtaining his license once again.

The applicant has made significant efforts to keep his knowledge and skills current by working as an EMT, attending professional medical conferences, and accepting a position that enables him to teach biology to junior high and high school students. He has maintained his certificates in Advanced Cardiac Life Support and Basic Life Support. He was re-certified by the NCCPA. Without a doubt, his genuine interest and desire to continue in his profession forms the basis for his constant and determined efforts toward rehabilitation and reeducation. On the record before us, it is the unanimous recommendation of this Peer Committee that the application before us be granted to the extent that the execution of the revocation of the applicant's license to practice as a registered physician's assistant be stayed, and that the applicant be placed on probation for a period of three (3) years under the terms and conditions of probation annexed hereto, made a part hereof and marked as Exhibit "A." Upon successful completion of the terms of probation, the applicant's license to practice as a registered physician's assistant in the State of New York would be fully restored.

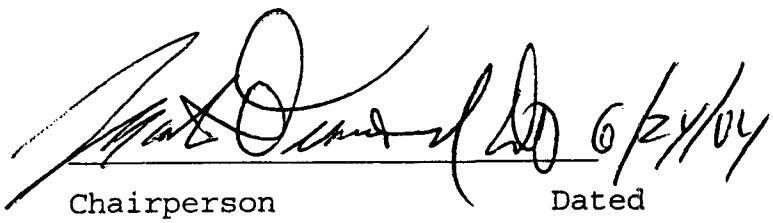
GRACIANO EVANS CLAUSE (21075)

Respectfully submitted,

Martin Diamond, D. O.,
Chairperson

Delores Riggins

Seymour Cohen, M. D.



Chairperson Dated

EXHIBIT "A"

TERMS OF PROBATION
OF THE PEER COMMITTEE

GRACIANO EVANS CLAUSE

CALENDAR NO. 21075

1. That applicant, during the period of probation, shall be in compliance with the standards of conduct prescribed by the law governing applicant's profession;

2. That applicant shall submit written notification to the Director, Office of Professional Medical Conduct (OPMC), 433 River Street - Suite 303, Troy, NY 12180-2299, of any employment and/or practice, applicant's residence, telephone number, and mailing address and of any change in applicant's employment, practice, residence, telephone number, and mailing address within or without the State of New York;

3. That applicant shall have quarterly performance reports submitted to the New York State Department of Health (DOH), addressed to the Director, Office of Professional Medical Conduct, as aforesaid, from his employer, evaluating his performance as a registered physician's assistant in his place of employment, said reports to be prepared by applicant's supervisor or employer;

4. That, during the period of probation, applicant's practice as a registered physician's assistant be limited to Article 28 facilities only, as set forth under the Public Health Law;

5. That, during the period of probation, applicant practice as a registered physician's assistant only under the personal supervision of a licensed physician in his place of employment;

6. That applicant shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that applicant has paid all registration fees due and owing to the NYSED and applicant shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by applicant to the Department of Health (DOH), addressed to the Director, OPMC, as aforesaid, no later than the first three months of the period of probation;

7. That applicant shall submit written proof to the DOH, addressed to the Director, OPMC, as aforesaid, that 1) applicant is currently registered with the NYSED, unless applicant submits written proof that applicant has advised DPLS, NYSED, that applicant is not engaging in the practice of applicant's profession in the State of New York and does not desire to register, and that 2) applicant has paid any fines which may have previously been imposed upon applicant

by the Board of Regents or pursuant to section 230-a of the Public Health Law, said proof of the above to be submitted no later than the first two months of the period of probation;

8. That applicant shall make quarterly visits to an employee of the OPMC, DOH, unless otherwise agreed to by said employee, for the purpose of said employee monitoring applicant's terms of probation to assure compliance therewith, and applicant shall cooperate with said employee, including the submission of information requested by said employee, regarding the aforesaid monitoring;

9. That upon receipt of evidence of noncompliance with or any other violation of any of the aforementioned terms of probation, the OPMC may initiate a violation of probation proceeding.