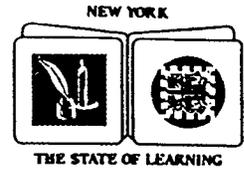


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THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK

Office of Professional Discipline, A. V. Zogg Bldg, 800 Fourth Street, Room 317, Liverpool, New York 13088  
Phone (315) 453-3124 Fax (315) 453-3133

November 13, 1998

Steven M. Ostrow, Physician  
113 St. John's Place, Apt. 2  
Brooklyn, New York 11217

Re: Application for Restoration

Dear Dr. Ostrow:

Enclosed please find the Commissioner's Order regarding Case No. 98-108-60 which is in reference to Calendar No. 0016989. 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

cc: Michael S. Kelton  
Lippman, Krasnow & Kelton, LLP  
711 Third Avenue  
New York, NY 10017

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The University of the State of New York  
Education Department



IN THE MATTER

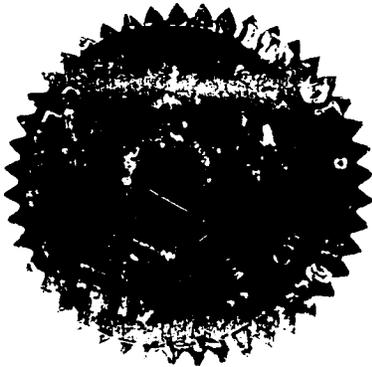
of the

Application of STEVEN M. OSTROW  
for restoration of his license to practice  
medicine in the State of New York

Case No. 98-108-60

It appearing that the license of STEVEN M. OSTROW, 113 St. Johns Place, Apt. 2, Brooklyn, New York 11217, authorizing him to engage in the practice of medicine, having been revoked by action of the Board of Regents on October 18, 1991, and he having petitioned the Board of Regents for restoration of said license, and the Regents having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 September 18, 1998, it is hereby

ORDERED that the execution of the order of revocation of License No. 169271, authorizing STEVEN M. OSTROW, to engage in the practice of medicine in the State of New York, is hereby stayed, and said STEVEN M. OSTROW is placed on probation for a period of three years under specified terms and conditions.



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 20<sup>th</sup>  
day of October, 1998.

  
Commissioner of Education

Case No. 98-108-60

It appearing that the medical license of STEVEN M. OSTROW, 113 St. Johns Place, Apt. 2, Brooklyn, New York 11217, having been revoked by action of the Board of Regents on October 18, 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 September 18, 1998, it was

VOTED that the execution of the order of revocation of License No. 169271, authorizing STEVEN M. OSTROW to practice medicine in the State of New York, be stayed, and said STEVEN M. OSTROW be placed on probation for a period of three years under specified terms and conditions.

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

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

Re: **Steven M. Ostrow**

Attorney: Michael Kelton

Steven M. Ostrow, 113 St. Johns Place, Apt 2, Brooklyn, New York 11217, petitioned for restoration of his medical license. The chronology of events is as follows:

- 02/03/87 Issued license number 169271 to practice medicine in New York State.
- 08/17/89 Charged with professional misconduct by Department of Health. (See "Disciplinary History.")
- 12/15/89 Hearing Committee voted charges be dismissed.
- 02/07/90 Commissioner of Health recommended revocation.
- 06/22/90 Board of Regents voted charges be dismissed without prejudice to the commencement of a new proceeding under an appropriately drawn statement of charges.
- 08/01/90 Charged with professional misconduct by Department of Health. (See "Disciplinary History.")
- 02/26/91 Hearing Committee voted revocation.
- 04/08/91 Commissioner of Health recommended revocation.
- 08/29/91 Regents Review Committee recommended revocation.
- 10/18/91 Board of Regents voted revocation.
- 11/06/91 Commissioner's Order became effective.
- 05/03/94 Petition for restoration submitted.
- 09/19/97 Peer Panel Restoration review.

- 12/03/97 Report and recommendation of Peer Review Panel. (See "Recommendation of the Peer Review Panel.")
- 05/13/98 Report and recommendation of Committee on the Professions. (See "Recommendation of the Committee on the Professions.")

**Disciplinary History.** (See attached report of the Regents Review Committee.) On August 1, 1990, the Department of Health charged Dr. Ostrow with professional misconduct based on specifications of patient abuse and moral unfitness. Specifically, he was charged with performing oral sex on a 15-year-old male patient in the men's dressing room after a knee arthrogram was completed. A Hearing Committee of the State Board for Professional Medical Conduct found Dr. Ostrow guilty of the charges and recommended revocation of his medical license. The Commissioner of Health also recommended revocation. A Regents Review Committee accepted the findings of fact and conclusions of the Hearing Committee and recommended that Dr. Ostrow's license be revoked. The Board of Regents voted to revoke Dr. Ostrow's license on October 18, 1991, and the Commissioner's Order became effective November 6, 1991.

Prior to this action, the Board of Regents voted on June 22, 1990 to dismiss similar charges of professional misconduct without prejudice to the commencement of a new proceeding under an appropriately drawn statement of charges. Those charges did not specify allegations of oral sex, and the Board of Regents determined that the fact that oral sex allegedly took place is the ultimate fact which the petitioner must prove in order to show willful physical abuse or moral unfitness in Dr. Ostrow's case. The Department of Health's 1990 charges against Dr. Ostrow alleged that oral sex occurred.

Dr. Ostrow submitted his petition for restoration of his medical license on May 3, 1994.

**Recommendation of the Peer Review Panel.** (See attached report of the Peer Review Panel.) The Peer Review Panel (Lopez, Hannan, Wu) met on September 19, 1997. In its report dated December 3, 1997, the Panel recommended unanimously that the revocation of Dr. Ostrow's license to practice medicine in the State of New York be stayed and that he be placed on probation for a period of three years under the standard terms of probation plus the following terms:

- That applicant shall have quarterly performance reports submitted to the New York State Education Department, addressed to the Executive Director, Office of Professional Discipline, as aforesaid, from his employer, evaluating his performance as a physician in his place of employment, said reports to be prepared by applicant's supervisor or employer.
- That applicant, during the period of probation, shall work only in a structured clinical

therefore, would not experience the repressed urges that led to the incident. Dr. Ostrow described his reeducation activities, including his extensive teaching experiences. He said that he had received excellent feedback from his students and that he found teaching gave him a wonderful feeling – something he never had before. He said that he wants to continue teaching if his license is restored as “teaching found me.” Mr. Kelton informed the Committee that Dr. Ostrow had just received the Outstanding Educator of the Year award from the clinical faculty at SUNY Health Sciences Center at Brooklyn.

The Committee asked if he thought he had caused any patient harm. He responded that it was a hard question to answer. He said that he didn’t know what went on in the young man’s mind, but believed that the patient thought it was a legitimate re-examination. He added that there was definitely a great potential for harm. He stated that he hoped no harm was caused.

The Committee concurs with the conclusion of the Peer Review Panel that Dr. Ostrow “has made a significant effort at rehabilitation” and “is truly remorseful.” The Committee notes that with the help of therapy, Dr. Ostrow has come to understand the underlying causes leading to his inappropriate behavior and has developed the personal and professional support system necessary to deal with future emotional difficulties. The Committee accepts the judgment of the Peer Review Panel that Dr. Ostrow is sufficiently current in his field. The Committee concurs with the belief of the Peer Review Panel that any prohibition that would preclude patient contact as suggested by the Health Department is unworkable. The Committee further believes that such a prohibition is unnecessary.

Therefore, after a complete review of the record, including Dr. Ostrow’s personal interview with the Committee on the Professions, the Committee voted unanimously to concur with the recommendation of the Peer Review Panel that the execution of the revocation of Dr. Ostrow’s license to practice as a physician in the State of New York be stayed and that he be placed on probation for a period of three years under the terms of probation recommended by the Peer Review Panel, annexed to this report and labeled Exhibit “A.”

Johanna Duncan-Poitier, Chair

Kathy Ahearn

Leslie Templeman

environment under supervision.

**Recommendation of the Committee on the Professions.** On May 27, 1998, the Committee on the Professions (Duncan-Poitier, Ahearn, Templeman) met with Dr. Steven M. Ostrow to consider his petition for restoration of his license as a physician in New York State. Michael S. Kelton, his attorney, accompanied him.

The Committee asked Dr. Ostrow to discuss the events that led to the loss of his license. He responded that in 1988 he was employed as a physician at the Hospital for Joint Diseases in New York City. Dr. Ostrow said that after giving an arthrogram to a fifteen-year-old male patient, he had a sudden "urge to see him undressed." He told the Committee that he went into the changing room because of this "urge to see him naked." He stated that he told the patient that he needed to recheck his leg and asked him to remove his pants. He stated that, while he looked at the patient, he did not touch him. He unequivocally denied engaging in any sexual activity with the patient, as he has since the beginning of this process. He nevertheless admitted that what he did was wrong. Dr. Ostrow explained that at the time of the incident he was struggling with issues concerning his own sexuality. He said that he was gay at the time of the incident but had never had a sexual experience with another male. He stated, "I suppressed my needs, I denied my problem."

Mr. Kelton told the Committee that there was only one person who had said that Dr. Ostrow and the patient were engaging in oral sex. He reported that that "witness" never actually saw the patient and Dr. Ostrow together, but heard sounds of what he believed was sexual activity. The Committee asked Dr. Ostrow if he had any sense as to why people would make false accusations against him. He responded that he didn't know why and had never seen any of those persons from the hospital since the hearing. Dr. Ostrow said that the patient himself never testified or provided any information in any of the proceedings concerning him.

Dr. Ostrow told the Committee he was upset that he had let himself and his patient down. He stated that he should have spoken with someone about his confusion, and that, if he had, he would not have acted as he did. Dr. Ostrow said that with the loss of his job, he had to face who he was and sought psychological help. He stated that "all the pieces came apart," but he had an opportunity to put all the pieces back together again and not leave one piece out, as he did before. After intensive therapy, he indicated that he was able to tell his parents that he was gay. He said that they are supportive and include him and his partner of five years in all family events. Dr. Ostrow stated, "I'm happy where I've come to after where I've been." The Committee asked how it could be assured the misconduct would not recur. Dr. Ostrow responded that he is now a totally different person who better understands himself. He indicated that he now knows what he has to lose. He said that he would speak to friends, his partner, and his parents if he were troubled by something. He indicated that he now accepts himself and feels positively about his identity, is living openly and honestly, and,

EXHIBIT "A"

TERMS OF PROBATION  
OF THE COMMITTEE ON THE PROFESSIONS  
FOR

STEVEN M. OSTROW

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 New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, 433 River Street, Suite 303, Troy, New York 12180-2299, of any employment and/or practice, applicant's residence, telephone number, or mailing address, and any change in employment, practice, residence, telephone number or mailing address within or without the State of New York;
3. 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 New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, no later than the first three months of the period of probation;
4. That applicant shall submit written proof to the New York State Department of Health, addressed to the Executive Director, Office of Professional Medical Conduct, as aforesaid, that 1) applicant is currently registered with the NYSED, unless applicant submits written proof to the New York State Department of Health, 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; said proof of the above to be submitted no later than the first two months of the period of probation;
5. That applicant shall have quarterly performance reports submitted to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, from his employer, evaluating his performance as a physician in his place of employment, said reports to be prepared by applicant's supervisor or employer;
6. That applicant, during the period of probation, shall work only in a structured clinical environment under supervision;

7. That applicant shall make quarterly visits to an employee of and selected by the Office of Professional Medical Conduct, New York State Department of Health, 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;
8. If the Director of the Office of Professional Medical Conduct determines that applicant may have violated probation, the Department of Health may initiate a violation of probation proceeding and/or such other proceedings pursuant to the Public Health Law, Education Law, and/or Rules of the Board of Regents