



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

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

June 3, 1993

Roberto A. Chabebe, Physician
52-20 Van Loon Street
Elmhurst, New York 11373

Re: Application for Restoration

Dear Dr. Chabebe:

Enclosed please find the Commissioner's Order regarding Case No. 93-1-60R which is in reference to Calendar No. 0012807. This order and any decision contained there in goes into effect five (5) days after the date of this letter.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations

By: 
Gustave Martine
Superisior

cc: Roger H. Hausch, Esq.
33 Willis Avenue
Mineola, New York 11501

The University of the State of New York
Education  Department

IN THE MATTER

of the

Application of ROBERTO A. CHABEBE for
restoration of his license to practice
medicine in the State of New York

Case No. 93-1-60R

It appearing that the license of ROBERTO A. CHABEBE, 52-20 VanLoon Street, Elmhurst, New York 11373, to practice medicine in the State of New York, having been revoked by action of the Board of Regents on September 15, 1989, and he having petitioned the Board of Regents for restoration of said license, and the Regents having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 recommendation of the Committee on the Professions, now, pursuant to action taken by the Board of Regents on April 23, 1993, it is hereby

ORDERED that the petition for restoration of license No. 168051-1, authorizing ROBERTO A. CHABEBE to practice medicine in the State of New York, is denied, but that the execution of the revocation of said license is stayed, and petitioner is placed on probation for a period of two years, under certain terms and conditions, including the condition that any practice during the period of probation take place in a facility licensed pursuant to Article 28 of the Public Health Law, licensed or regulated pursuant to Article 31 of Mental Hygiene Law, or comparable facility regulated by the Office of Mental Hygiene or the Office of Mental Retardation and Developmental Disabilities.

IN WITNESS WHEREOF, I, THOMAS SOBOL,
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 28th day of May, 1993.

Thomas Sobol

Commissioner of Education

Case No. 93-1-60R

It appearing that the license of ROBERTO A. CHABEBE, 52-20 VanLoon Street, Elmhurst, New York 11373, to practice medicine in the State of New York, having been revoked by action of the Board of Regents on September 15, 1989, and he having petitioned the Regents for restoration of said license, and the Regents having given consideration to said petition, and having agreed with and accepted the recommendation of the Committee on the Professions, now, pursuant to action taken by the Board of Regents on April 23, 1993, it was

VOTED that the petition for restoration of license No. 168051-1, authorizing ROBERTO A. CHABEBE to practice medicine in the State of New York, be denied, but that the execution of the revocation of said license be stayed, and that petitioner be placed on probation for a period of two years, under certain terms and conditions, including the condition that during the period of probation petitioner may only practice in a facility licensed pursuant to Article 28 of the Public Health Law, regulated pursuant to Article 31 of Mental Hygiene Law, or a comparable facility regulated by the Office of Mental Hygiene or the Office of Mental Retardation and Developmental Disabilities.

TERMS OF PROBATION OF THE COMMITTEE ON THE PROFESSIONS

1. That petitioner shall make quarterly visits to an employee of and selected by the Office of Professional Medical Conduct of the New York State Department of Health, unless said employee agrees otherwise as to said visits, for the purpose of determining whether petitioner is in compliance with the following:

a. That petitioner, during the two year period of his probation, shall be in compliance with the standards of conduct prescribed by the law governing petitioner's profession;

b. That petitioner shall submit written notification to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, Empire State Plaza, Albany, NY 12234, of any employment and/or practice, petitioner's residence, telephone number, or mailing address, and of any change in petitioner's employment, practice, residence, telephone number, or mailing address within or without the State of New York;

c. That petitioner shall, during the term of his probation, restrict his practice as a physician to employment in a facility approved under Article 28 of the New York State Public Health Law or a facility approved under Article 31 of the New York State Mental Hygiene Law;

d. That petitioner shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that petitioner has paid all registration fees due and owing to the NYSED and petitioner 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 petitioner 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;

e. That petitioner shall submit written proof to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) petitioner is currently registered with the NYSED, unless petitioner submits written proof to the New York State Department of Health, that petitioner has advised DPLS, NYSED, that petitioner is not engaging in the practice of petitioner's profession in the State of New York and does not desire to register,

and that 2) petitioner has paid any fines which may have previously been imposed upon petitioner 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;

f. If the Director of the Office of Professional Medical Conduct determines that petitioner 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.

93-1-60R
February 11, 1993

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: **Roberto A. Chabebe**
(Personal Appearance)

Attorney: Roger H. Hausch

Roberto A. Chabebe, 52-20 VanLoon Street, Elmhurst, New York 11373, petitioned for restoration of his medical license. The chronology of events is as follows:

- 10/08/86 Licensed to practice medicine in New York State.
- 08/07/87 Summary suspension of medical license by Department of Health. (See "Disciplinary History.")
- 09/07/89 Regents Review Committee recommended that license be revoked.
- 09/15/89 Regents voted revocation.
- 10/10/89 Commissioner's Order effective.
- 12/17/90 Petition for restoration submitted. (See "Petition for Restoration.")
- 05/29/92 Peer Panel restoration review. (See "Report and Recommendation of Peer Review Panel.")
- 11/05/92 Report of Peer Review Panel.
- 02/11/93 Report of personal appearance and recommendation of the Committee on the Professions. (See "Recommendation of the Committee on the Professions.")

Disciplinary History. On August 7, 1987, the Department of Health summarily suspended Dr. Chabebe's medical license. The Order of the Commissioner of Health was accompanied by a notice of hearing and a formal statement of disciplinary charges. Dr. Chabebe was charged with professional misconduct in that he had been habitually dependent upon narcotics or other drugs having a similar effect, that he had practiced the profession of medicine while his ability to practice was impaired by narcotics, and that

he practiced his profession with gross negligence. It was charged that Dr. Chabebe had been, and continued to be, a chronic abuser of controlled substances including cocaine, that during the period from on or about July 1, 1984 to June 1, 1987 he engaged in the practice of medicine at Metropolitan Hospital while impaired as a result of drug use, and that on or about May 29, 1987 he reported to work at Metropolitan Hospital while impaired by drugs.

In September 1987, the Hearing Committee (Bartoletti, Iaquina, Brandt) of the Department of Health concluded that Dr. Chabebe was habitually dependent upon narcotics, and that his continued practice of medicine would constitute an imminent danger to the health of the people of the State of New York. The Hearing Committee unanimously recommended that the summary order remain in effect until final action by the Board of Regents. On December 3, 1987, the Commissioner of Health signed an Order directing the Hearing Committee to make a recommendation as to the disposition of Dr. Chabebe's license relative to the disciplinary charges. During January 1988, the Hearing Committee issued a Supplemental Report recommending that Dr. Chabebe's license be indefinitely suspended; and that upon application for reinstatement of license he must demonstrate competence. On April 4, 1988, the Commissioner of Health recommended that the Hearing Committee's recommendation be modified to revocation. In addition, the Commissioner ordered that the summary suspension remain in effect until a final decision by the Board of Regents.

On June 6, 1988, the Regents Review Committee (Sanford, Black, Liebowitz) recommended that the matter be remanded to the Hearing Committee to make factual findings, conclusions, and recommendations specifically on the three specifications of misconduct. On June 17, 1988, the Board of Regents accepted the recommendation of the Regents Review Committee, and voted to remand the matter to the Hearing Committee. The Commissioner of Education signed the Order on July 1, 1988.

In February 1989, the Hearing Committee issued a second supplemental report in which it found Dr. Chabebe guilty of the charges, and recommended that his license be revoked. On July 12, 1989, the Commissioner of Health recommended that the findings of fact, conclusions, and recommendation of the Hearing Committee be accepted. The recommendation was accompanied by an Order prohibiting Dr. Chabebe from practicing medicine until a final decision by the Board of Regents.

In a report dated September 7, 1989, the Regents Review Committee (Lustig, Liebowitz, Picariello) recommended that Dr. Chabebe's license be revoked, and that he be given credit of one year for time served under his summary suspension towards applying for restoration. On September 15, 1989, the Board of Regents voted revocation with the one year credit towards applying for

restoration. The Commissioner's Order became effective on October 10, 1989.

Petition for Restoration. Dr. Chabebe submitted his petition for restoration in the form of a brief letter, dated December 17, 1990. Dr. Chabebe asserted that he had been sober and drug-free since his discharge from Harris Community Hospital, where he had been treated for cocaine abuse in June 1987. He contended that he was able to carry out this difficult but vital objective with the support and direction of several organizations including the Physicians Health Committee of the New York State Medical Society, Alcoholics Anonymous, and Caduceus. He stated that since March 1988 he had submitted to random drug screening monitored by a physician designated by the New York State Medical Society. In addition, Dr. Chabebe stated that he was a patient at the Washton Institute where he received and participated in individual and group psychotherapy two times a week.

Dr. Chabebe said that he had held the position of Psycho-Social Research Associate at the Addiction and Research Treatment Corporation since October 1989. He further said that he had maintained his medical knowledge by reading, by attending medical lectures and conferences, and by interaction with other health professionals.

Updated letters from individuals supporting the restoration of Dr. Chabebe's license were submitted to the Office of Professional Discipline. Dr. Andrew Tatarsky, a clinical psychologist, submitted two letters along with a copy of the record of his sessions with Dr. Chabebe. The Department of Health, Office of Professional Medical Conduct, recommended that if Dr. Chabebe's license is restored, he be given a five-year period of probation with standard impairment terms.

Report and Recommendation of Peer Review Panel. The Peer Review Panel (LaSorte, Lopez, Riggins) met on May 29, 1992. Dr. Chabebe appeared personally, and was accompanied by Roger H. Hausch, Esq. The Office of Professional Discipline was represented by Kenneth Appel, Esq.

Four individuals appeared on Dr. Chabebe's behalf: Dr. Andrew Tatarsky, Dr. Peter Szilagyi, Dr. Lawrence Brown, and Ms. Margo Harrison. Dr. Tatarsky stated that Dr. Chabebe had maintained long-term sobriety, was a model patient, that he utilized self-help groups, and that he was absolutely stable with no positive urine tests. Dr. Szilagyi stated that he had been acquainted with Dr. Chabebe during his financial problems and his loss of employment. He further stated that Dr. Chabebe had shared his problems, helped others, and contended that Dr. Chabebe was a good candidate for restoration of licensure. Dr. Szilagyi is the director of Washton

Institute which is an organization founded in 1987 that helps health professionals through their latter days of recovery from addiction. Dr. Brown, an employee of the Addiction Research and Treatment Corporation, stated that he oversees Dr. Chabebe's progress in recovery, and would be willing to monitor Dr. Chabebe's medical practice and professional behavior, as well as conduct random urine tests, and report any failures to the appropriate authority. Ms. Harrison, a certified social worker, stated that since May 1989 she had been Dr. Chabebe's therapist at the Washton Institute. She said that he actively participated in group, had maintained his sobriety, had a positive prognosis, and recommended the restoration of his license.

In describing the events that resulted in the loss of licensure, Dr. Chabebe recounted that he had injected cocaine intravenously and that three times, while on drugs, he had mixed heroin with cocaine. He explained that his addiction was noticeable, that he was late for work, and that his appearance at work under the ravages of cocaine was observed by his supervisors. He stated that he had called Metropolitan Hospital and reported that he was on drugs. He further stated that he is sorry he let the medical profession down, that he had been drug free since May 29, 1987, and that he would like to complete his residency.

Dr. Chabebe said that after completing a program at Harris Community Hospital, he worked for six months in his sister's hardware store in Santo Domingo, then as a central supply technician in the same business in Ecuador for five weeks. After returning to the United States, Dr. Chabebe related that he took a job working as a research assistant at the Addiction Research and Treatment Corporation. He said that he lost his profession, his personal and family life, and is very remorseful. Dr. Chabebe noted that he has a good support system, and his recovery is on the right track. He said that he would like the opportunity to return to the practice of medicine and is willing to be monitored.

While the Peer Review Panel took a serious view of Dr. Chabebe's prior misconduct, it believed that sufficient rehabilitation had taken place. The Panel's compassion was, however, tempered by certain built-in protections for the public against possible recidivism. The Peer Panel, therefore, recommended that the revocation of Dr. Chabebe's license be stayed, and that he be placed on probation for five years under specified terms and conditions including monitoring by a physician. The Panel further recommended that said monitor review random selections of patient records, office records and hospital charts, and submit a report once every six months. In addition, the Panel recommended that Dr. Chabebe only be allowed to practice in a supervised setting in an institution, under the supervision of a board certified psychiatrist.

Recommendation of the Committee on the Professions. On February 11, 1993, the Committee on the Professions (Cantres, Sauer, Fernandez) reviewed the petition of Roberto A. Chabebe for the restoration of his license as a physician. Dr. Chabebe appeared personally, but was not represented by an attorney.

The Committee has reviewed the Peer Review Panel report and the accompanying record, and has determined that the findings and conclusions of the Peer Review Panel are amply supported by the record; although for reasons set forth below, the Committee has recommended that the Peer Review Panel's terms of probation be modified.

Dr. Chabebe initially stated that he believed the Peer Review Panel report was fair, but that he was concerned that the probation terms might limit his practice only to psychiatry when he would prefer to enter into a supervised program in internal medicine. Dr. Chabebe expanded by stating that he is afraid of returning to practice because he feels he needs training. He said this is why he would like to start out in a supervised setting. He acknowledged that no specific setting is available to him currently, but that he would ultimately like to be in a hospital emergency room doing internal medicine. He stated that the physician who has been monitoring his urine screening indicated that a supervised internal medicine residency might be available at South Oaks Hospital on Long Island. Dr. Chabebe said that he is not interested in going into private practice and would be comfortable with having his practice restricted to a hospital setting. Dr. Chabebe said that he had always liked psychiatry and had been only one month shy of trying for board certification in psychiatry before his disciplinary problems began. However, Dr. Chabebe pointed to a trend of physicians leaving the practice of psychiatry and indicated that he was not comfortable going back to psychiatry. The Committee explained to Dr. Chabebe that probation terms can always be reconsidered should this prove to be necessary and desirable.

Dr. Chabebe explained that he has been drug free for five years now and that he had reported himself to the hospital where he had been working when he had a drug problem. He stated that he had been using intravenous cocaine at the time. Dr. Chabebe said that while he had never seen patients when actually high on cocaine, his patients had nevertheless suffered because he failed them by not being the best he could be. Dr. Chabebe said that it was impossible for him to see patients when high on the intravenous cocaine because he could not function with patients. He said that he was often tired and depressed when the cocaine wore off and that this indirectly damaged his patients. Dr. Chabebe stated that he had undergone a total of 37 days of in-patient drug abuse treatment, as well as three years of individual and group therapy. He also said that he attended impaired professional meetings once a week and Alcoholics Anonymous meetings.

Dr. Chabebe recounted the events leading to his being disciplined professionally. He stated that he was ready to surrender his license at the time and that he had enrolled in the Department of Health and New York State Medical Society's program for impaired physicians, but that when the Office of Professional Medical Conduct investigators contacted him they said that he was a chronic abuser of cocaine and heroin. Dr. Chabebe acknowledged that he was a chronic abuser of cocaine, but said that he had only used heroin three times and was not a chronic abuser of heroin. He said that he had been unwilling to agree to the heroin claim. In the midst of his discussion with the Department of Health, his case was leaked to the New York Post making headline news and ruining him. He said that he became uncooperative and left the country first to join his family in the Dominican Republic and later his wife who had moved to Ecuador.

Dr. Chabebe said that his treatment and drug testing started when he first returned to California in 1988. He said that he eventually returned to New York and brought his family back when he had earned enough money. Dr. Chabebe explained that he is now employed by the Minority Task Force on Acquired Immune Deficiency Syndrome as a mental health coordinator doing outreach to Latinos, people of color, and gays and lesbians. He said that he refers clients to resources and facilitates a mental health group.

The Committee found Dr. Chabebe to be credible and candid about his drug abuse, its effect on his patients, and his subsequent rehabilitation. Dr. Chabebe appeared to have confronted and dealt with his addiction to drugs and its effect on his medical practice satisfactorily. The Committee concluded that it would be best for Dr. Chabebe to limit his practice to an appropriate hospital or mental health facility setting for a period of two years, though not necessarily in the area of psychiatry in light of Dr. Chabebe's admission that he would not be comfortable returning immediately to the practice of psychiatry, and his desire to enter into a supervised internal medicine program. The Committee tailored its probation recommendation accordingly.

Based upon all the foregoing, the Committee unanimously found that Dr. Chabebe has demonstrated the remorse, rehabilitation, and reeducation essential to restoration of his license as a physician. The Committee also unanimously found that Dr. Chabebe would benefit from probation that would limit his practice for two years to an appropriate Public Health Law Article 28 facility, Mental Hygiene Law Article 31 facility or facility governed by the Office of Mental Health or the Office of Mental Retardation and Developmental Disabilities. Accordingly, the Committee unanimously recommended that the revocation of Dr. Chabebe's license to practice as a physician be stayed, and that he be placed on probation for two years under the terms specified below, said terms to include that his practice be restricted to an appropriate Public Health Law

Article 28 facility, Mental Hygiene Law Article 31 facility or facility governed by the Office of Mental Health or the Office of Mental Retardation and Developmental Disabilities.

Lizette A. Cantres, Chair

Richard J. Sauer

Henry A. Fernandez