



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

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January 10, 2001

Harshad C. Bhatt, Physician
a/k/a Harshadrai Chimanlal Bhatt
51 Homewood Place
Manhasset, New York 11030

RECEIVED

JAN 16 2001

OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

Re: Application for Restoration

Dear Dr. Bhatt:

Enclosed please find the Commissioner's Order regarding Case No. 00-196-60 which is in reference to Calendar No. 18049. 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

cc: John J. Budnick, Esq.
775 Wantagh Avenue
Wantagh, New York 11793

The University of the State of New York
Education Department



IN THE MATTER

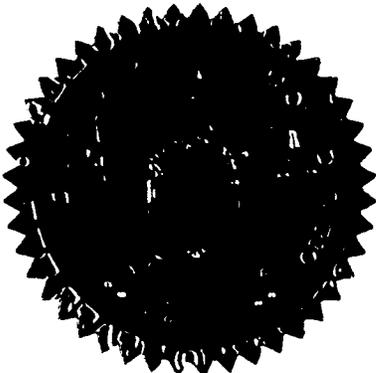
of the

Application of HARSHAD C. BHATT a.k.a. HARSHADRAI CHIMANLAL BHATT for restoration of his license to practice as a physician in the State of New York.

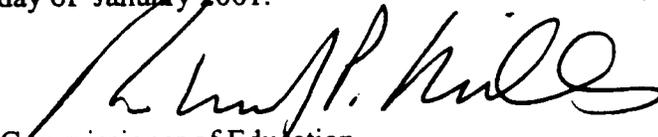
Case No. 00-196-60

It appearing that the license of HARSHAD C. BHATT a.k.a. HARSHADRAI CHIMANLAL BHATT, 51 Homewood Place, Manhasset, New York 11030, authorizing him to practice as a physician in the State of New York, was revoked by action of the Administrative Review Board for Professional Medical Conduct on May 20, 1996, and he having petitioned the Board of Regents for restoration of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 majority of the Peer Review Panel and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on November 10, 2000, it is hereby

ORDERED that the petition for restoration of License No. 153340, authorizing HARSHAD C. BHATT a.k.a. HARSHADRAI CHIMANLAL BHATT, to practice as a physician in the State of New York, is denied, but that the execution of the order of revocation of his license shall be stayed, and he will be placed on probation for a period of four years under specified terms and conditions and, upon successful completion of this probationary period, his license shall 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 4th day of January 2001.


Commissioner of Education

Case No. 00-196-60

It appearing that the license of HARSHAD C. BHATT a.k.a. HARSHADRAI CHIMANLAL BHATT, 51 Homewood Place, Manhasset, New York 11030, to practice as a physician in the State of New York, having been revoked by action of the Administrative Review Board for Professional Medical Conduct on May 20, 1996, 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 majority of the Peer Review Panel and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on November 10, 2000, it was

VOTED that the petition for restoration of License No. 153340, authorizing HARSHAD C. BHATT a.k.a. HARSHADRAI CHIMANLAL BHATT to practice as a physician in the State of New York, be denied, but that the order of revocation shall be stayed, and petitioner shall be placed on probation for a period of four years under specified terms and conditions, and upon successful completion of this probationary period, his license shall be fully restored.

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: Harshad C. Bhatt
a/k/a Harshadrai Chimanlal Bhatt

Attorney: John J. Budnick

Harshad Bhatt, 51 Homewood Place, Manhasset, New York 11030, petitioned for restoration of his physician license. The chronology of events is as follows:

- 03/11/83 Issued license number 153340 to practice as a physician in New York State.
- 05/17/94 Convicted in Supreme Court of the State of New York, Queens County, of one count of Insurance Fraud in the Fourth Degree, a Class E Felony.
- 08/18/95 Charged with professional misconduct by Department of Health. (See "Disciplinary History.")
- 01/10/96 Effective date of Hearing Committee of the State Board for Professional Medical Conduct's Determination and Order issuing a three-year stayed suspension of licensure and five years probation.
- 05/20/96 Effective date of Administrative Review Board for Professional Medical Conduct's Decision and Order for revocation.
- 07/24/97 Supreme Court, Appellate Division, dismissed CPLR Article 78 petition for review of determination of Administrative Review Board for Professional Medical Conduct.
- 03/24/98 Submitted application for restoration of professional license.
- 04/07/00 Peer Committee restoration review.
- 08/04/00 Report and recommendation of Peer Committee. (See "Report of the Peer Committee.")
- 09/25/00 Report and recommendation of Committee on the Professions. (See "Report of the Committee on the Professions.")

Disciplinary History. (See attached disciplinary documents.) On or about May 17, 1994, Harshad Bhatt was convicted upon a guilty plea in the Supreme Court of the State of New York, Queens County, of Insurance Fraud in the Fourth Degree, a Class E Felony. He was found guilty of submitting a false Medicare claim form to GHI Insurance Company for \$34,037.77 for surgery that was never performed. He was sentenced to five years probation, a \$10,000 fine, restitution to the U.S. Government for \$36,451.54 and a \$5 crime victim fee.

On August 18, 1995, the New York State Department of Health charged Dr. Bhatt with one specification of professional misconduct for having been convicted of committing an act constituting a crime under New York State Law. A Hearing Committee of the New York State Department of Health State Board for Professional Medical Conduct met on November 8, 1995 and concluded that Dr. Bhatt was guilty of the charges of professional misconduct and ordered that his license to practice medicine be suspended for three years, but that the suspension be stayed and he be placed on probation for five years. The Hearing Committee added a special condition of probation, specifying that Dr. Bhatt retain, at his own expense, a certified public accountant to monitor his billing practices for compliance with laws and regulations.

On January 16, 1996, the Office of Professional Medical Conduct requested a review of the determination of the Hearing Committee. On May 20, 1996, an Administrative Review Board for Professional Medical Conduct overturned the penalty of the Hearing Committee and ordered that Dr. Bhatt's license be revoked. Dr. Bhatt filed a CPLR Article 78 petition with the Supreme Court, Appellate Division, contesting the revocation of his licensure, indicating that it was "shockingly disproportionate to the offense committed and lacked a basis in the record." On July 24, 1997, the Supreme Court, Appellate Division, dismissed the petition, confirming the revocation.

On March 24, 1998, Dr. Bhatt submitted an application for restoration of his physician license.

Recommendation of the Peer Committee. (See attached Report of the Peer Committee.) The Peer Committee (Boyce, Norris, Riggins) met on April 7, 2000 to review the application for restoration. In its report dated, August 4, 2000, the Committee recommended by a vote of 2 to 1, to stay the revocation of Dr. Bhatt's license and place him on probation for three years, including a provision for monitoring his billing practices and office records. The dissenting committee member voted to deny the application for restoration. This committee member believed that Mr. Bhatt has not met the criteria for restoration, is not fully reeducated, and is not admitting to his misconduct but, rather, hiding behind his son's accident.

Recommendation of the Committee on the Professions. On September 25, 2000, the Committee on the Professions (Duncan-Poitier, Ahearn, Muñoz) met with Dr. Bhatt to review his application for restoration of his license. He was accompanied by Mr. John Budnick, his attorney, and Mr. Dimple Bhatt, his son. On behalf of his client, Mr. Budnick provided written materials on Dr. Bhatt's involvement in the following: The Millennium World Peace Summit, Long Island Multi-faith Forum, Sadgati Society, B.A.P.S. Medico Spiritual Conference, B.A.P.S. National Walkathon, San Francisco

Vegetarian Society Newsletter, Pramukh Swami Hospital Dabhoi, Colden Center for the Performing Arts, and New York Mandir Fund Raising.

The Committee asked Dr. Bhatt to explain what happened that led to the revocation of his licensure. He indicated that he was convicted in 1993 for submitting "27 cases of fraudulent billing." He explained that he could only prove that 13 of the cases were legitimate billings and since he couldn't prove the other 14 cases to be legitimate, he pled guilty to all 27 cases of fraudulent billing after his lawyer made a deal with the court. He added, "I feel I am on probation for life. I can never escape this black mark."

Dr. Bhatt told the Committee that he feels "ashamed" of what he did, especially when he considers the problems that the Medicare program is having. He told the Committee, "I caused a breach in the trust between my profession and my patients. I caused an immeasurable amount of pain to my family. I cry nightly because I am guilty of a crime." He indicated that he now realizes he "can do nothing but walk the correct path."

The Committee asked Dr. Bhatt how the fraudulent billing began. Dr. Bhatt said that he would explain what was happening in his life at that time, but he wanted to clarify that "I want to present the truth—but I don't want to hide behind it." He explained that his son was in an auto accident and became paralyzed. He said, "My whole life was in upheaval." Dr. Bhatt described how he neglected billing for over one and a half years to care for his son. He indicated that he didn't have time to check or correct his billings. He said, "I just wanted to get bills out." My priority was my son." He stated that eventually, his activities transformed into "greed and selfishness."

The Committee noted that in reviewing the record it was not clear whether his actions were based upon mistakes or were purposeful, and asked Dr. Bhatt to clarify the discrepancies. The Committee indicated that rehabilitation could not occur unless the root causes of the misconduct were clearly addressed. Dr. Bhatt replied that the prime reason was "reckless disregard of the law and my greed and selfishness. I knew it was wrong as I was filling out the form. I was knowingly cheating the program." He elaborated and reported that he felt his patients received extraordinary care, regardless of their ability to pay. He indicated that his collection rate was only 50%, but he still had enough patients and money to live a good life – until the accident occurred. The Committee asked if he had changed his mind to come to this new conclusion. He stated that there was a mixture of issues as he felt that half of the problems that caused his misconduct were greed and the rest was attributable to mismanagement of his billing. He reiterated that for the 27 fraudulent billings, 13 were mistakes and 14 were intentional fraudulent billings.

When the Committee asked Dr. Bhatt why he wanted more money, he responded, "I had no reason. I think it was pure greed. My son was covered by insurance. I was not needing money." He explained how he went to see two psychologists to try to get help for "this feeling of greed" but stopped when it became too expensive. Dr. Bhatt stated, "I went for two years. They taught me exercises to practice to deal with this issue. I go every Sunday to temple to get some help from

religious leaders because I couldn't afford the psychologists. In my faith we believe that to correct the negative things you have done, you must do profuse good things to move the balance back. Happiness only comes by helping others."

The Committee requested that Dr. Bhatt describe his patient profile. He explained that he had a general orthopedic surgery practice in Bedford Stuyvesant, Brooklyn and Jamaica, Queens. He said he worked in underserved areas with approximately 30% of his practice Medicare patients. He told the Committee that he often cared for his community, who didn't have any insurance, and didn't bill them. He stated that he wanted to give back to the community he harmed and established a clinic for those patients who don't have insurance. Dr. Bhatt reported that he found 20 licensed doctors to donate their time to see those patients.

The Committee asked Dr. Bhatt about his rehabilitation activities. He told the Committee that the first thing he had to do was admit the misconduct. He said that once that was done, he pursued rehabilitation on many levels. He saw psychologists for about two years and has been seeing a religious leader for over 4 years. He said that he realizes that he must work hard to "correct every deficit so that it can never happen again and take precautionary methods to re-emerge a better person and physician." Dr. Bhatt also explained how his volunteer work is rehabilitative for him. He described his numerous activities, including speaking to young people about his crime, producing brochures, working in museum shops, teaching foreign languages, and organizing health fairs. He affirmed, "I defrauded the community and I must give it back to them."

The Committee asked Dr. Bhatt why he felt he was competent to re-enter the profession. He replied that he had taken 55 hours of continuing medical education, attended lectures and seminars, and subscribed to Physicians Online. He said he hoped to undergo an extensive retraining in orthopedic surgery but knew it was expensive and required his license.

Dr. Bhatt described his son's current studies toward a medical degree and stated that he would tell his son that "The medical profession is noble. You go into it because you like it – to serve and help people. Practice without taint or tarnish and walk on the path of truth."

In closing, Dr. Bhatt told the Committee that he faltered once and "I should have been stronger and wiser." He told the Committee that when his son is going out he tells him to drive carefully, and his son says to him that he made a mistake once and lost his legs as a result of that mistake. Now, he says that his son is a very safe driver because he is always reminded of what happened to him. He described his own situation similarly and says that he practiced medicine for many years and made a mistake that cost him his life. He said that he knows he will never make that mistake again because he remembers everyday what it cost him. Dr. Bhatt summarized that he has accepted his wrongdoing, undergone a multi-level rehabilitative process, corrected every deficit that might cause future problems, understands that he needs to be a better person, and is a fully rehabilitated doctor.

The overarching concern in all restoration cases is the protection of the public. Education Law (section 6511) gives the Board of Regents discretionary authority to make the final decision regarding restoration of a license to practice as a physician in New York State. Section 24.7(2) of the Rules of the Board of Regents 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 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 grievous and 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 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 feels that Dr. Bhatt has demonstrated an understanding of the seriousness of the misconduct he committed, a commitment to rehabilitation, genuine remorse, a determination to give back to the community from which he stole, and marked efforts at reeducation. The Committee finds that Dr. Bhatt has demonstrated his commitment to continue his rehabilitation through his movement of therapy from two psychologists that he could no longer afford to counseling from his religious leader for over four years. He exhibited genuine remorse and frankness to the Committee through his responses to their questions and continues to do extensive volunteer work throughout the community to provide restitution. The COP is pleased with Dr. Bhatt's efforts toward reeducation; however, it feels that in order to fully re-enter the profession and practice as an orthopedic surgeon, Dr. Bhatt needs to complete a training program. The COP concurs with the following assessment from the Department of Health: "We accept Dr. Bhatt's petition, including his continued community service work as an expression of his genuine remorse. Dr. Bhatt has made full payment of the restitution and fines ordered by the Court. Also, he has paid a significant professional price during the termination of his medical practice for over 30 months. We expect that in the future he will practice with integrity and in accordance with all moral and professional standards of conduct."

Therefore, after a complete review of the record and its meeting with him, the Committee on the Professions unanimously recommends that the order of Dr. Bhatt's revocation be stayed, and that he be placed on probation for four years under the terms of probation affixed to this report and labeled as Exhibit "B."

Johanna Duncan-Poitier, Chair

Kathy Ahearn

Frank Muñoz

EXHIBIT "B"

**TERMS OF PROBATION
OF THE COMMITTEE ON THE PROFESSIONS
FOR**

Harshad C. Bhatt

1. Dr. Bhatt shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his profession.
2. Dr. Bhatt shall comply with all federal, state and local laws, rules and regulations governing the practice of medicine in New York State.
3. Dr. Bhatt shall submit prompt written notification to the Board of any change in employment, practice, residence or telephone number, within or without New York State, addressed to the Director of Professional Medical Conduct, Empire State Plaza, Corning Tower Building, Room 438, Albany, New York 12237.
4. In the event that Dr. Bhatt leaves New York to reside or practice outside the State, Dr. Bhatt shall notify the Director of the Office of Professional Medical Conduct in writing at the address indicated above, by registered or certified mail, return receipt requested, of the dates of his departure and return. Periods of residency or practice outside New York shall toll the probationary period, which shall be extended by the length of residency or practice outside New York.
5. Dr. Bhatt shall have quarterly meetings with an employee or designee of the Office of Professional Medical Conduct during the period of probation. During these quarterly meetings Dr. Bhatt's professional performance may be reviewed by having a random selection of office records, patient records and hospital charts reviewed.
6. Dr. Bhatt shall retain, at his own expense, a certified public accountant, acceptable to the Director of Professional Medical Conduct, during the period of probation. During these quarterly meetings Dr. Bhatt's professional performance may be reviewed by having a random selection of office records, patient records and hospital charts reviewed.
7. Dr. Bhatt shall submit quarterly declarations, under penalty of perjury, stating whether or not there has been compliance with all terms of probation and, if not, the specifics of such non-compliance. These shall be sent to the Director of the Office of Professional Medical Conduct at the address indicated above.
8. Dr. Bhatt shall submit written proof to the Director of the Office of Professional Medical Conduct at the address indicated above that he has paid all registration fees due and is currently registered to practice medicine with the New York State Education Department.

If Dr. Bhatt elects not to practice medicine in New York State, then he shall submit written proof that he has notified the New York State Education Department of that fact.

9. Dr. Bhatt will complete a refresher course in orthopedic surgery, approved by the Executive Secretary of the New York State Board for Medicine, before the period of probation has ended. Dr. Bhatt will provide written documentation of the approval and successful completion of the course to the Office of Professional Medical Conduct at the address indicated above.
10. If there is full compliance with every term set forth herein, Dr. Bhatt may practice as a physician in New York State in accordance with the terms of probation. However, upon receipt of evidence of non-compliance with, or any violation of these terms of probation, a violation of probation proceeding and/or any such other proceeding as may be warranted, may be initiated against Dr. Bhatt pursuant to the law.



The University of the State of New York

NEW YORK STATE EDUCATION DEPARTMENT
OFFICE OF PROFESSIONAL RESPONSIBILITY
STATE BOARD FOR MEDICINE

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In the Matter of the Application of

HARSHAD C. BHATT, M.D.

REPORT OF
THE PEER
COMMITTEE
CAL. NO. 18049

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

-----X

Applicant, HARSHAD C. BHATT, was authorized to practice as a Physician in the State of New York by the New York State Education Department by the issuance to him of license No. 153340. Said license was revoked as a result of a professional misconduct proceeding. The applicant has applied for restoration of his license.

On April 7, 2000 this Peer Committee convened to review this matter and make the following recommendation to the Committee on the Professions and the Board of Regents.

BACKGROUND INFORMATION

The written application, supporting papers provided by the

HARSHAD C. BHATT, M.D. (18049)

applicant and the papers resulting from the investigation conducted by the Office of Professional Discipline (OPD) has been compiled by the prosecutor into a packet that has been distributed to this Peer Committee in advance of its meeting and also provided to the applicant. Listed below is the background information from the packet.

PRIOR DISCIPLINE PROCEEDING

03/11/83 Licensed to practice medicine in NYS. License #153340.
09/30/93 Arrested and charged with insurance fraud, grand larceny, falsification of business records
05/17/94 Pled guilty. Insurance Fraud, 4th degree Felony E. Pled guilty in NYS Supreme Court Criminal Term, Queens County for knowingly submitting a false claim for Surgical services not rendered.
07/12/94 Sentenced. Supreme Court - 5 years probation, \$10,000 fine and \$36,000 restitution, and surcharges.
10/11/94 Exclusion from U.S. Dept. of Health and Human Services
11/08/95 Expedited Hearing OPMC. BPMC #:95-316
01/02/96 Determination and Order of Hearing Committee Penalty. 3 years stayed, Suspension, 5 years probation with Certified Public Accounting Monitor.
01/10/96 Administrative Review Board (ARB) reviewed Hearing Committee's determination and ARB overturned Hearing Committee's determination recommended medical license revocation.
05/20/96 Revocation of Harshad Bhatt's medical license in State of New York.
04/30/97 Early release from probation, (Supreme Court Justice Eng).
05/29/97 Appeal made to NYS Supreme Court re license revocation of 5/13/96 - denied by Appellate Division 3rd Dept.
04/07/98 Supreme Court Justice granted relief from Civil Disabilities under NYS Corrections Law Article 23.

APPLICANT'S PETITION FOR RESTORATION

On March 23, 1998, applicant submitted a petition for the restoration of his license to practice as a physician in the State of New York. Applicant was interviewed by an investigator from the Office of Professional Discipline on January 13, 1999. During the interview applicant was accompanied by his attorney, John Budnick, Esq. Applicant stated that he was educated in India and has privileges in England but that since his licensure in New York in 1983, he has not practiced in either of those countries.

Applicant admitted that he was criminally indicted for insurance fraud.

Applicant enumerated the following reasons as explanations for his misconduct as stated in the investigator's report:

- In 1986, when starting solo practice applicant was completely unschooled about accounting, billing, office procedures, and submission of insurance forms. He was overwhelmed by his clinical commitments and paid minimal attention to his billing practices "until it was too late." When asked to assess his workload, subject said that he knew he had spread himself too thin, and his life was "out of balance." He described receiving a "workaholic's high" from immoderation.
- Subject related, that when he began solo practice, he rented office space from a colleague and had no area for a billing clerk/file storage. Bhatt said that this hindrance contributed to his inappropriate billing practices. Subject claimed he developed haphazard record keeping habits from a senior MD/mentor. Subject recounted that he would generate patient medical records by

HARSHAD C. BHATT, M.D. (18049)

making entries on "little paper scraps" after a 16-18 hr. workday. He described these practices as chaotic and unprofessional. Bhatt recounted that this carelessness resulted in his not being reimbursed on occasions when he should have been. His records were so scant, repayment by insurers was not justified. Subject believed he was denied payment entitlements and attempted redress by fraudulent claim filing. The billing confusion procedures became so staggering that in early 1989, to avoid the tedium, he deliberately neglected to bill Medicare and Medicaid. Bhatt claimed that although he cared for patients, he neglected to submit bills in compliance with mandated reimbursement deadlines. He tried to ameliorate his situation by purchasing a computer with software for orthopedic surgeons. Unfortunately, he was unable to use it correctly and it was an ineffective effort.

- Subject claimed a 3rd reason he behaved fraudulently was due to his extreme personal/emotional stress, caused by injuries sustained by his son in a Motor Vehicle Accident (MVA) which left him permanently paralyzed. Subject stated that his mental and emotional status "completely collapsed, and he behaved bizarrely" in coping with the impact of this tragedy.
- Applicant concluded that the three predominant factors that led to his billing fraud were overwork, a chaotic billing system, and personal tragedy in the illness of his son.
- From 1989-1990, subject's son was entirely dependent upon Bhatt and his wife for his care. Subject stated that a particular night was his "downfall." After an exhausting day, he worked from 11 p.m. to 6 a.m. in an effort to meet a deadline for claim submission. Subject said he was careless, rushed and burnt-out when he completed the forms. Bhatt candidly admitted that inherent in all of his problems was the elemental fact that "he was

HARSHAD C. BHATT, M.D. (18049)

greedy." Subject admitted his fraud in at least 16 out of the 27 cases, where he billed for unprovided services. Subject tearfully said "there has not been a single day since his revocation that he has not repented for the wrong that he has done." Subject has attempted to re-educate himself to avoid future reoccurrence of misconduct. Bhatt stated that since his revocation, he has become knowledgeable in other areas of medicine and life. Specifically, he has learned much about the business of medicine-computers, billing codes et cetera.

Applicant stated that he has experienced extreme financial hardship since his revocation. He has supported his family by borrowing money from his family and friends. Applicant has devoted himself to community service since his revocation. He works in his temple with young people to show them how greed and carelessness have caused him to lose everything.

In 1995, applicant underwent counseling with Richard Morrissey concerning issues related to his professional practice, his legal problems and the illness of his son. Thereafter, he entered into a therapeutic relationship with Amy Kraft but needed to discontinue the visits for financial reasons. Applicant has also taken many accounting and billing courses in an attempt to rectify the deficiencies that contributed to his misconduct. Applicant has also hired a personal accountant to help him with the financial aspects of medicine as was suggested to him by OPMC.

A \$10,000 fine imposed by the court in the criminal proceeding and has made full restitution.

HARSHAD C. BHATT, M.D. (18049)

Applicant entered into a stipulated civil settlement with subject wherein applicant agreed to repay \$150,000. Applicant stated that he has made several payments but has not fully paid this debt.

Bhatt's pre-sentencing probation report was obtained and verified his admission of Medicare fraud, the 10/88 motor vehicle accident sustained by his son, and overwhelming business circumstances.

REFERENCES INTERVIEWED BY OPD

1. Santi DiFranco, MD, and Specialist in Internal Medicine was interviewed. DiFranco has known Bhatt for 17 years. DiFranco recalled subject as a resident, when they shared patients and worked together at various facilities of the Catholic Medical Center, (CMC), including Mary Immaculate, St. Joseph's and St. John's, Queens, NY. DiFranco knew the subject physician was sanctioned, due to fraud. DiFranco thinks the subject has made appropriate restitution, had been "desperately stressed and was totally out of his mind", when Bhatt's son was paralyzed. DiFranco was informed that the subject fraudulently billed Medicare for unprovided services amounting to nearly \$34,000. DiFranco expressed surprise that the dollar amount of fraud was so flagrant. DiFranco was informed by OPD investigators of the basis of Bhatt's revocation (submission of 27 fraudulent Medicare claims). DiFranco stated he was not fully informed of this issue when he was asked by Bhatt to complete his affidavit of support. However, DiFranco said that even after being informed of the specifics of the misconduct and criminal situation, he still supports restoration of Bhatt's medical license because Bhatt has been remorseful, is an excellent doctor and deserves a second chance.
2. Amy Kraft, PhD, Psychologist treating subject since 4/98 for issues of fraudulent billing and license restoration said she believes Bhatt was ignorant of billing/office procedures prior to his revocation. Kraft's therapeutic

goal is to help sharpen Bhatt's cognitive and visual skills to address his record keeping deficiencies. Kraft was asked why Bhatt waited two years after his license revocation to formalize his psychotherapy with her. She answered that the subject could not afford to pay her price for treatment sessions. Kraft thinks the subject has become a "more moral person" because of the revocation. Kraft believes the subject has evidenced repentance, remorse, has become very involved in his religion and predictably would not relapse.

3. Henry Marano, Jr., MD, Marano has known Bhatt for more than 10 years. Since 1992, both men were attending MDs at CMC (Mary Immaculate Hospital and St. Joseph's) in Queens. Marano was fully aware of Bhatt's criminal insurance fraud. Marano asserted that he believes Bhatt knowingly stole money from federal entitlement programs. Marano postulated that the subject billed fraudulently due to fears of financial indigence emerging from the expense of his son's unending treatments, which included multiple experimental surgeries. Marano confirmed that the subject has donated care to poor patients from impoverished, medically under-served areas in Jamaica, NY. Marano believes Bhatt is remorseful. Marano stated that Bhatt's sanction and license revocation was a "slap in Bhatt's face." After his revocation, Marano described Bhatt as deeply involved in his religion, is a priest in the Hindu religion, and is very involved in community services. Marano reported that Bhatt has taken courses to correct knowledge deficits in billing practices and he will be a very good doctor if and when he returns to practice. Reference described Bhatt as highly technically proficient in his field. Marano concluded that Bhatt has learned a painful and important lesson, and he strongly supports subject's license restoration.
4. Bhutendia R. Patel, MD, Patel is the Chief of Medicine at the Community Hospital of Western Queens (CHWQ), formerly the Astoria General Hospital. He is aware that the subject fraudulently billed Medicare for \$34,000. He believes that Bhatt has repented, and will not repeat his fraud/misconduct. Patel related that the subject made a serious mistake, admitted his wrongdoing, did not ask for an easier sentence, and has accepted his punishment. Patel said the subject has worked unceasingly with the poor. Patel stated that the subject now completely realizes that he is part of the U.S.

HARSHAD C. BHATT, M.D. (18049)

health care system and graciously assents to undergo whatever disciplinary processes the U.S. and NY State deem necessary to have his license reinstated. Patel's support of restoration of subject's license was unequivocal.

5. Philip Taylor, MD, Taylor is the Director of St. Mary's Hospital, Orthopedic Dept. in Brooklyn. Taylor was aware that Bhatt was revoked for misconduct deriving from criminal charges and fraud. Taylor was unaware of exact monetary amounts comprising Bhatt's Fraud. Taylor's has an excellent professional/clinical opinion of Bhatt. Both MD's worked at CMC. He believes Bhatt's fraud was uncharacteristic because subject is essentially an "ethical man". Taylor described that subject has agonized about the effects of his misconduct and revocation upon his family, patients, profession and himself.
6. Devendra M. Jani, MD, Jani is licensed to practice medicine in New Jersey, not in New York... Jani has known the subject fraudulently billed for surgical services, which were never performed, and that his son suffered a severe paralyzing accident, Jani believes that the emotional impact of his son's accident affected subject's judgment and behavior. Jani surmised that Bhatt probably got "carried away" when he billed fraudulently and he is not a deceitful person. Jani believes Bhatt has made restitution and been rehabilitated. Jani described that "Bhatt works tirelessly" in the Hindu Temple. Subject works advancing public relations, and gave an example that Bhatt introduced enabling subject to live modestly. Jani described Bhatt as an excellent orthopedic physician, who is highly talented with patients needing fracture fixations, hip replacements and spinal disc diseases. Jani offered to help Bhatt, if and when lending subject's license is restored, by lending his personal secretary, to assist Bhatt with billing. Jani concluded that Bhatt "is now a very honest person and has learned his lesson", and supports restoration of subject's license.

DCJS REPORT

The DCJS report was received and evidenced Bhatt's arrest on September 30, 1993, for insurance fraud and grand larceny. The

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report revealed subject's disposition of a conviction upon a plea of a conviction upon a plea of guilty. The subject was sentenced on July 12, 1994 to five years probation, fine of \$10,000 (fine paid). Penal/parole data demonstrated subject's Certificate of Relief, which was effectuated early on April 30, 1997, and will be permanent on July 11, 1999.

OPMC

Anne F. Saile, Director, OPMC provided written documentation in her letter of 2/17/98 that OPMC does not oppose the restoration of Bhatt's medical license. Saile opined that OPMC accepts Bhatt's petition, including his continued community service work as an expression of his genuine remorse. She stated that Bhatt has made full payment of the restitution and fines ordered by the Court, and that subject has paid significant professional price during the termination of his medical practice for over 30 months. Saile believes that in the future, Bhatt will practice with integrity and in accordance with all moral and professional standards of conduct. To insure Bhatt's full compliance with these expectations, OPMC recommends that should the Board of Regents decide to restore the subject's license to practice medicine, that a period of probation with practice monitoring, including a review of his billing systems and practices, be imposed.

PEER COMMITTEE

On April 7, 2000, the Peer Committee convened to review this matter. The applicant appeared before us and was represented by an attorney, John J. Budnick, Esq.

Representing the Office of Professional Discipline and appearing before us was Wayne Keyes, Esq.

TESTIMONY OF APPLICANT

Applicant admitted to committing insurance fraud by submitting false claims to Medicare from 1989 to 1991. Applicant told OPMC four years ago that he was sorry for what he did and reiterates that he continues to be sorry. Applicant states that he has thought about his wrong doing every second of his life for the last

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ten years. Applicant states as an explanation for his conduct, but in no way as an excuse, that his son's accident and the stress and strain that he found himself under led to his behaving in ways that were out of character for him.

Applicant stated that in 1989:

...there was a knock on my door and a police was there, informing me that my son was involved in an accident. At the time, my son was a first year student, he was a brilliant student from Bronx High School of Science, he conducted himself very well, and he was in an accident and he was taken to North Shore Hospital for the treatment.

He did not have a scratch on his body. I was an orthopedic surgeon. The time when he needed me, the time when he needed a physician, he had nothing wrong which I can help. What happened was, that he had a ruptured aorta, which is a near fatal accident. He pulled out through it, he remained unconscious for about nine days. Subsequently, he had a graft, aortic graft put in his thoracic aorta. As a result of it, his circulation suffered to his leg and he become [sic] paraplegic.

For nine months he stayed in the hospital. For first 21 critical days he stayed at North Shore Hospital, and following that he stayed in Rusk Institute, and after that another six month to a year he stayed in bed at home. I was at his bedside day and night. That is one part of my explanation.

On the other side of my story, sir, is that I was running a practice which when I think now I am literally ashamed of it. I came into practice in 1984. Within five years, four or five years, I picked up a great amount of practice...

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I worked there for five years. Five hospitals. I went to three different clinics. I went to two nursing homes. And I was running three offices. This was a total chaos. I did not have proper staff who knew the stuff. I did not have properly educated people who can help me, and I tried to run the whole busiest practice on my own. In short, it was not a proper medical professional's office, but a chaotic and disorganized office.

Unfortunately, because of such a mismanaged and unorganized office, a sudden accident to my son, my whole life crumbled in one night. For I will say 18 months, I neglected billing, I neglected my own life, because my only son was on the death bed. I wish not on my enemy that when a father is walking and healthy, his own blood, his own son is in a wheelchair for life. That should never happen. It is a shock to your own life and one would never ever come, will come to the terms with this kind of reality.

Even when I am saying this and offering as an explanation, please, ladies and gentlemen, do not consider that I want to - I want to disown any responsibility. No matter what the circumstances were, no matter how disorganized I was, no matter how chaotic my practice was, it was not supposed to be done, any illegal filing of the claims is not excusable. And there will never be any excuse, but what I want to present you, ladies and gentlemen, for your consideration, is my mental condition on near the bed of my son when I was totally, totally helpless.

Mixed with the unorganized practice, I committed this crime. It is not a good idea to say that I did not know what I was doing, because that is not true. So I do own full responsibility of what I did. Sir, that was the time of 1989 and '91, almost ten years have gone since through, and ten years of punishment, ten years of suffering, ten years of having a wet pillow in the morning. I can

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never ever show you literally that what kind of remorse I am hiding in my deepest of the heart. I know I have no words for it. Maybe I am limited because of my language disability, but I cannot express fully that how sorry I am and here I am to you asking for your mercy, sir.

Since his revocation applicant has involved himself full time in Community Service. After his arrest applicant took steps to correct his wrongdoing. Applicant hired a billing manager who used to work for Blue Cross and was knowledgeable about billing. He purchases a costly computer system with software for billing and scheduling and made sure that his billing was up to date. Applicant completely changed his record keeping and no longer keeps his records on little scraps of paper.

Applicant has taken many CME courses in a variety of fields orthopedic, accounting, billing and record keeping. Applicant has received counseling both religious and psychiatric.

Applicant believes that the community work, his devotion to his temple and his efforts and rehabilitation and re-education have made him a better, stronger and wiser person.

In response to questions by the prosecuting attorney, applicant states that he does not know his motivation for doing what he did. He thinks that his mind was so destroyed, that his thinking went on a different route. Applicant states that if he is allowed to return to the practice of medicine, he would be the most careful practitioner, ever. He would have focus, limit his practice

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and not over-stretch himself. He would have a proper office and run it in the most practical and ethical way. He would employ billing persons and have in place strict accounting procedures. In response to questions, applicant stated that if the panel chooses to restore his license, he would have no objections and would welcome the terms of probation originally suggested by OPMC.

Applicant is in the process of setting up a clinic to treat people in his community who have no insurance. He has tried to recruit doctors to donate a few hours of their time to serve the community. He believes that he would have more success convincing people to donate their time if his license was restored and he was to set an example by working there himself.

Exhibit A

Additional documents were received in evidence and marked as Exhibit A.

Testimony of Devendra Jani, MD

Dr. Jani testified in support of the restoration of applicant's license to practice as a physician in the State of New York. Dr. Jani is licensed in New York, New Jersey, Delaware, California and Texas. He is related to applicant by marriage and had loaned applicant and his family over \$300,000 in order to help them support themselves. Dr. Jani has counseled applicant on billing procedures and third party reimbursement. Dr. Jani even offered to train applicant's secretary. Dr. Jani states that

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applicant attends the annual meeting of the American Academy for Orthopedic Surgeons. Applicant has also been taking review courses for his ten year re-certification. Dr. Jani remains ready to assist in counseling and supervision of applicant if applicant were granted the privilege of returning to the practice of medicine.

Closing Statement by Applicant's Attorney

Applicant has done virtually everything he could over the past several years to rehabilitate himself and to admit to his problems. Applicant has done all that is humanly possible to conduct himself in all ways as a model physician and to be worthy of the restoration of his license.

Closing Statement by Prosecuting Attorney

The Office of Professional Discipline takes no position on the applicant's restoration application. However, they ask that if the panel decides to restore the applicant's license that they consider placing him on probation for a period of two years with similar terms as those recommended by OPMC.

RECOMMENDATION

In reaching our determination in this matter we have taken into consideration the entire record. We determine by a vote of two to one that applicant has rehabilitated himself. Applicant is remorseful for what he has done, accepts responsibility for his wrongdoing, has kept himself abreast of changes in the profession. Applicant has tried to make restitution to his community and has

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sought counseling to identify the root causes of his problems and to find better ways to deal with his problems. Applicant committed his wrongdoing under circumstances of extreme duress. Applicant has learned how to cope with his stress in other ways and how to reach out to others for help.

One of the panel members does not believe he has met the criteria for restoration. That member believes that applicant has difficulty admitting what he has done and is hiding behind his son's accident. Additionally, he believes that applicant's efforts at re-education are not adequate.

Based on the foregoing, this panel recommends to the Board of Regents, by a vote of 2 to 1, that the revocation of applicant'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 and that the terms of probation contain provisions for monitoring applicant's billing practices and office records. A copy of the terms of probation are annexed hereto, made a part hereof and marked as Exhibit "A".

Respectfully submitted,
John G. Boyce, MD, Chairperson
James E.C. Norris, MD
Delores Riggins, Public Member


Chairperson

8.4.00
Dated

EXHIBIT A
TERMS OF PROBATION

1. Dr. Bhatt shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his profession.
2. Dr. Bhatt shall comply with all federal, state and local laws, rules and regulations governing the practice of medicine in New York State.
3. Dr. Bhatt shall submit prompt written notification to the Board of addressed to the Director of Professional Medical Conduct, Empire State Plaza, Corning Tower Building, Room 438, Albany, New York 12237, regarding any change in employment, practice, residence or telephone number, within or without New York State.
4. In the event that Dr. Bhatt leaves New York to reside or practice outside the State, Dr. Bhatt shall notify the Director of the Office of Professional Medical Conduct in writing at the address indicated above, by registered or certified mail, return receipt requested, of the dates of his departure and return. Periods of residency or practice outside New York shall toll the probationary period, which shall be extended by the length of residency or practice outside New York.
5. Dr. Bhatt shall have quarterly meetings with an employee or designee of the Office of Professional Medical Conduct during the period of probation. During these quarterly meetings Dr. Bhatt's professional performance may be reviewed by having a random selection of office records, patient records and hospital charts reviewed.
6. Dr. Bhatt shall retain, at his own expense, a certified public accountant, acceptable to the Director of Professional Medical Conduct during the period of probation. During these quarterly meetings Dr. Bhatt's professional performance may be reviewed by having a random selection of office records, patient records and hospital charts reviewed.
7. Dr. Bhatt shall submit quarterly declarations, under penalty of perjury, stating whether or not there has been compliance with all terms of probation and, if not, the specifics of such non-compliance. These shall be sent to the Director of the Office of Professional Medical Conduct at the address indicated above.

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8. Dr. Bhatt shall submit written proof to the Director of the Office of Professional Medical Conduct at the address indicated above that he has paid all registration fees due and is currently registered to practice medicine with the New York State Education Department. If Dr. Bhatt elects not to practice medicine in New York State, then he shall submit written proof that he has notified the New York State Education Department of that fact.
9. If there is full compliance with every term set forth herein, Dr. Bhatt may practice as a physician in New York State in accordance with the terms of probation; provided, however, that upon receipt of evidence of non-compliance or any other violation of the terms of probation, a violation of the terms of probation, a violation of probation proceeding and/or such other proceedings as may be warranted, may be initiated against Dr. Bhatt pursuant to New York Public Health Law §230(19) or any other applicable laws.