



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

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PUBLIC

January 15, 2004

Joseph G. Spektor, Physician
54 Indian Drive
Woodcliff, New Jersey 07677

Re: Application for Restoration

Dear Dr. Spektor:

Enclosed please find the Commissioner's Order regarding Case No. CP-03-12 which is in reference to Calendar No. 20570. 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: Amy T. Kulb, Esq.
Jacobson & Goldberg
585 Stewart Avenue
Garden City, New York 11530



The
University of the
Education  State of New York
Department

IN THE MATTER

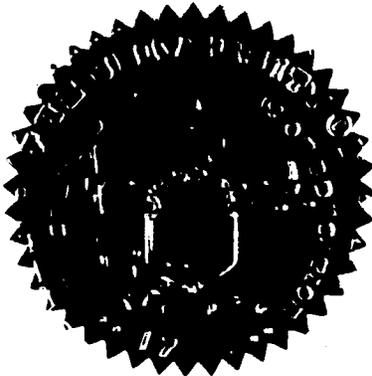
of the

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

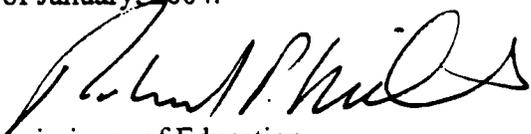
Case No. CP-03-12

It appearing that the license of JOSEPH G. SPEKTOR, 54 Indian Drive, Woodcliff Lake, New Jersey 07677, to practice as a physician in the State of New York, was revoked by the Administrative Review Board for Professional Medical Conduct, effective August 11, 1999, and he having petitioned the Board of Regents for restoration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, but having accepted the amended terms of probation recommended by the Committee on the Professions rather than the terms of probation originally recommended by the Peer Committee, now, pursuant to action taken by the Board of Regents on November 14, 2003, it is hereby

ORDERED that the petition for restoration of License No. 160727, authorizing JOSEPH G. SPEKTOR to practice as a physician in the State of New York, is denied, but that the Order of Revocation of his license be stayed for 18 months, and said JOSEPH G. SPEKTOR be placed on probation for 18 months under the terms and conditions specified by the Committee on the Professions, and that upon successful completion of the probationary period, his license to practice as a physician in the State of New York 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 8th
day of January, 2004.


Commissioner of Education

Case No. CP-03-12

It appearing that the license of JOSEPH G. SPEKTOR, 54 Indian Drive, Woodcliff Lake, New Jersey 97677, to practice as a physician in the State of New York, having been revoked by the Administrative Review Board for Professional Medical Conduct, effective August 11, 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, but having accepted the amended terms of probation recommended by the Committee on the Professions rather than the terms of probation originally recommended by the Peer Committee, now, pursuant to action taken by the Board of Regents on November 14, 2003, it was

VOTED that the petition for restoration of License No. 160727, authorizing JOSEPH G. SPEKTOR to practice as a physician in the State of New York, is denied, but that the Order of Revocation of his license be stayed for 18 months, and said JOSEPH G. SPEKTOR be placed on probation for 18 months under the terms and conditions specified by the Committee on the Professions, and that upon successful completion of the probationary period, his license to practice as a physician in the State of New York shall be fully restored.

Case number
CP-03-12
October 16, 2003

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: Joseph G. Spektor
a/k/a Iosif G. Spektor**

Attorney: Amy T. Kulb

Joseph G. Spektor, 54 Indian Drive, Woodcliff Lake, New Jersey 07677, petitioned for restoration of his physician license. The chronology of events is as follows:

- 11/05/84 Issued license number 160727 to practice as a physician in New York State.
- 08/03/98 Charged with professional misconduct by Department of Health. (See "Disciplinary History.")
- 08/07/98 Department of Health summarily suspended physician license.
- 03/17/99 Hearing Committee of the State Board for Professional Medical Conduct revoked license.
- 03/25/99 Effective date of revocation.
- 08/04/99 Administrative Review Board for Professional Medical Conduct sustained revocation.
- 04/06/02 Submitted application for restoration.
- 03/11/03
03/19/03 Peer Committee restoration review.
- 08/07/03 Report and recommendation of Peer Committee. (See "Report of the Peer Committee.")
- 09/18/03 Committee on the Professions restoration review.
- 10/16/03 Report and recommendation of Committee on the Professions. (See "Report of the Committee on the Professions.")

Disciplinary History. (See attached disciplinary documents.) On August 7, 1998, the Commissioner of Health summarily suspended the physician license of Dr. Spektor for 90 days upon a finding that his continued practice of medicine would constitute an imminent danger to the health of the people of New York State. The Statement of Charges alleged 139 specifications of professional misconduct, including allegations of the fraudulent practice of medicine, gross negligence, gross incompetence, negligence on more than one occasion, incompetence on more than one occasion and moral unfitness. The charges related to the surgical and anesthesia care that Dr. Spektor provided to 20 patients. On October 29, 1998, the Commissioner ordered that the summary suspension be continued based on a recommendation of a Hearing Committee of the State Board for Professional Medical Conduct.

The Hearing Committee reconvened to render a final determination on the charges of professional misconduct. The Committee dismissed the charges of incompetence on more than one occasion and gross incompetence. The Committee sustained the charges that Dr. Spektor practiced with negligence on more than one occasion and with gross negligence by attempting to administer general anesthesia and monitored anesthesia care to Patients A through T while simultaneously performing surgery and by failing to provide adequate postoperative monitoring. The Committee also sustained the charges of practicing fraudulently and engaging in conduct that evidenced moral unfitness. The Committee determined that Dr. Spektor created records that failed to reflect accurately what had occurred in the operating room. The Committee voted to revoke his license and the revocation was effective March 25, 1999.

Dr. Spektor and the Department of Health appealed the Hearing Committee's determination of guilt and penalty to an Administrative Review Board for Professional Medical Conduct. On August 4, 1999, the Review Board sustained the Hearing Committee's determinations of guilt and penalty.

Dr. Spektor submitted an application for restoration of his license on April 6, 2002.

Recommendation of the Peer Committee. (See attached "Report of the Peer Committee.") The Peer Committee (Cordice, Jr.; Cohen; Courmos) met with Dr. Spektor on March 11 and March 19, 2003 to review his application for restoration. In its report, dated August 7, 2003, the Committee recommended that the order of revocation of Dr. Spektor's physician license be stayed, that he be placed on probation for 18 months under specified terms, and that upon successful completion of the probationary period, his license be fully restored. The recommended probationary terms would require Dr. Spektor to complete a one-year fellowship in anesthesiology, including training in the ethical aspects of practice and in the skills of full monitoring and record keeping of the anesthesiology patient.

Recommendation of the Committee on the Professions. On September 18, 2003, the Committee on the Professions (Ahearn; Templeman; Munoz) met with Dr. Spektor to review his application for restoration. Amy T. Kulb, Esq., his attorney, accompanied him. Dr. Spektor presented the Committee with documentation of his

completion of 60 credit hours of continuing medical education from the American Society of Anesthesiologists.

The Committee asked Dr. Spektor for his reaction to the Report of the Peer Committee. He replied that he thought it was a very objective report and felt that the Peer Committee members had digested everything presented to them and had issued a comprehensive report. He said, "I agree with their conclusion 100 percent." The Committee noted that the Peer Committee recommended a one-year fellowship as part of the probationary terms and asked Dr. Spektor if he had any problems with that recommendation. He replied, "I don't have any problem. I am very grateful to have any positive result, including what they mentioned. This would be a chance for me to show you and the people of New York State that I deserve to come back and be a medical doctor again." Dr. Spektor told the Committee that he felt it was appropriate to work with a mentor during this fellowship as it would be a period of adjustment for him and he wanted to make certain that he "put myself on the right track."

The Committee asked what type of practice he would engage in if his license were restored. Dr. Spektor replied that he wanted to practice as an anesthesiologist and as a pain management specialist. He stated, "I know I was very good in these areas." He explained that during his residency training in anesthesiology at Brookdale General Hospital, he had the opportunity to work with "one of the pioneers in the area of pain management." Dr. Spektor told the Committee that although he practiced surgery before coming to the United States, he did not have a residency in surgery in the United States and should not have practiced in that specialty area. He indicated that if given his license he would not be engaged in a surgical practice. He reported that he is still involved with Brookdale General Hospital. He indicated that he was in private practice in Brooklyn from 1990-1998; however, during 1996 and 1997 he supplemented his income by working one day a week at an ambulatory surgery clinic where the professional misconduct occurred.

The Committee asked if he had completed his required restitution payment of \$28,000. He replied, "No." He explained that he pays a small amount each month and as his income decreased, the judge reduced the amount of his monthly payments. He reported that even though he has made payments every month, he still owes around \$27,000. Dr. Spektor said that he had some savings but that it was gone by the year 2002. He indicated that he continues to try to support himself and had worked part-time at a senior assisted living facility in which he had done volunteer work. He reported that he now works as a limousine driver. Dr. Spektor said that his wife also started to work after completing courses for a real estate license. He indicated that he does not have health insurance and has had to borrow money from friends and family to meet everyday expenses. He told the Committee that he hopes that one day he could work as a medical doctor again; otherwise, he said that he would have to sell his house.

The Committee asked Dr. Spektor if he understood what was wrong with his being both the anesthesiologist and surgeon for a patient at the same time. He replied, "You cannot jeopardize a patient's health – even for one second. If you are doing surgery, you cannot watch the patient's vital signs very closely." Dr. Spektor said, "If something happens, you can't leave one field to go to the other." The Committee asked if he knew this at the time when the misconduct occurred. Dr. Spektor said, "I was trying

to rationalize what I did at that time. Everything came from my poor judgment to make money." The Committee asked Dr. Spektor how it could be assured that he would not cut corners to make some extra money if his license were restored. He replied, "I am completely changed. My number one priority would be for the patient." He said that he realizes that a physician license is a privilege. He indicated that he has learned a lot from his colleagues. He reported that he was a member of a study club of colleagues in the medical profession that met once a month and he continued with the group even after losing his license. Dr. Spektor said that with the members of this group, "What they tell you is from the heart." He reported that when the group learned of his professional misconduct they inquired, "How could you do that. Please explain it to us." He said that initially he had difficulty answering the group's questions but gradually began to understand why he did what he did and was able to freely discuss his actions and motives with the group. Dr. Spektor said that in addition to medical issues, topics of discussion included conduct in the medical profession and professional misconduct. He said, "I believe it helped me a lot."

Dr. Spektor related his activities to keep current with the profession, including his continuing medical education courses and his attendance at Grand Rounds and conferences at Brookdale General Hospital. The Committee asked if he had taken any courses in record keeping. He responded that he had and that he had also participated in private lessons with the clinical director at the hospital. Dr. Spektor said that he used to think that patient records were maintained only for the physician. He indicated that he now realizes that they must be thorough, complete, and understandable so that there would be no unnecessary complications with the care of a patient and so that anyone looking at the record would easily understand what was done. He said that good records also avoided speculation and fraudulent billing and were a source of accurate and complete information for insurance companies.

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 physician 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 as valid whatever is presented to it 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 finds that Dr. Spektor presented a compelling case for the restoration of his physician license at this time. The COP agrees with the Peer Committee that Dr. Spektor has expressed strong remorse for his past misconduct. He was able to clearly articulate the potential danger in which he placed his patients at the ambulatory surgical

clinic by practicing simultaneously as the surgeon and anesthesiologist. He expressed sincere remorse that his greed superseded the needs of his patients. The Committee notes that no charges of professional misconduct related to his practice in anesthesiology and pain management at his primary private practice have ever been made against Dr. Spektor. Dr. Spektor has done extensive community service at an assisted living facility. He continues to participate in a monthly study group with other physicians, which discusses not only topics in medicine, but also appropriate conduct and professional misconduct in the medical profession. This support group challenged him to understand and explain why the professional misconduct occurred and why such conduct was unacceptable. The COP notes that his discovery of the root causes of his misconduct was evolutionary and that Dr. Spektor was able to clearly articulate how he would avoid such misconduct in the future. The COP found Dr. Spektor's responses to its questions credible and heartfelt. The COP concurs with the Peer Committee that Dr. Spektor demonstrated that there "appears to be a low risk for repeating such behavior again." The COP accepts the judgment of the Peer Committee that Dr. Spektor "has striven to redress the deficiencies in his actions that resulted in his revocation. He has undertaken considerable reeducation and participation in activities in the field of anesthesiology." Similarly, the COP agrees with the Peer Committee's recommendation that Dr. Spektor complete a one-year residency in anesthesiology, which would include discussion on the issues of ethics in anesthesiology and of full monitoring and record keeping of an anesthesiology patient, before fully restoring his license.

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 Dr. Spektor's physician license be stayed for 18 months, that he be placed on probation for 18 months under specified terms and conditions attached to the Report of the Peer Committee and labeled as Exhibit "A," and that upon successful completion of the probationary period, his license be fully restored.

Kathy Ahearn, Chair

Leslie Templeman

Frank Munoz



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

JOSEPH SPEKTOR

**REPORT OF
THE PEER
COMMITTEE
CAL. NO. 20570**

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

-----X

JOSEPH SPEKTOR, hereinafter known as the applicant, was previously licensed to practice as a physician in the State of New York by the New York State Education Department. That license was revoked by the New York State Department of Health, Office of Professional Medical Conduct (OPMC) as a result of a professional misconduct proceeding. The applicant has applied for restoration of his license.

On March 11, 2003 and March 19, 2003 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 applicant and papers resulting from the investigation conducted

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by the New York State Education Department, 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.

Listed below is the background information from that packet. Further details pertaining to these documents may be found therein.

PRIOR DISCIPLINE PROCEEDING

Action by the State Board for Professional Medical Conduct:

- March 17, 1999 - The Hearing Committee of the State Board for Professional Medical Conduct finds the applicant guilty of professional misconduct and determines a penalty of revocation of his license to practice Medicine.
- March 18, 1999 - An order is mailed to the applicant enforcing the determination, the order becoming effective seven days after that mailing.
- July 29, 1999 - The Administrative Review Board for Professional Medical Conduct issues a report of its consideration of the applicant's appeal to that Board. The report upholds the determination of the Hearing Committee
- August 4, 1999 - The determination and order of the Administrative Review Committee is served by mail upon the applicant and became effective seven days thereafter.

- Specifications of misconduct - The applicant was found guilty of practicing the profession with gross negligence (specifications 1-22); negligence on more than one occasion (specification 45); practicing fraudulently (specifications 47,49, 51, 53, 56, even numbered specifications between 60-92); and conduct which evidences moral unfitness (even numbered specifications between 94-136).
- Nature of the Misconduct - (As culled from the decision papers of the discipline proceeding and explanatory material throughout the restoration proceeding record:) In or about the years 1996 and 1997, the applicant sought to supplement his full-time private practice of medicine in Brooklyn with part-time employment at three ambulatory surgery clinics or practices. The applicant's misconduct pertains to his one day a week employment at one of those practices, LRMA.*

In his own private practice, the applicant specialized in pain management, including use of pain blocks and other forms of anesthesiology. At LRMA, he provided anesthesiology services to the practitioners performing ambulatory surgery, usually cosmetic surgery. At some point, the owners of the clinic persuaded the applicant,

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

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who had been a surgeon in his native Russia, to perform certain surgical procedures, primarily removal of skin lesions.

The respondent eventually was subject to investigation and discipline after he left the employ of this practice because of his treatment of approximately twenty patients. The wrongdoing by the applicant in the treatment of these patients constituted a general pattern in which it was found he performed the surgical removal of skin lesions while also acting as the anesthesiologist for the procedure, in violation of the standard of care that a physician should not be both surgeon and anesthesiologist at the same procedure; the facility used people in assisting in the procedures and in the recovery room that were not licensed or otherwise qualified to perform that function; the applicant's record keeping was inadequate or improper, particularly in circumstances where he reconstructed his anesthesiology entries after the fact rather than contemporaneous with the anesthesiology being performed; that some such records were clearly erroneous in that they showed him performing different procedures at the same time; and that the applicant was involved in fraud in the construction of these records [which also apparently, as inferred from the separate criminal proceeding described below, were used by the practice to make improper insurance claims].

- Federal criminal conviction - July 31, 2001 - Judgment of conviction filed July 31, 2001, United States District Court, Southern District of New York, resulting from the applicant's plea to one count of an indictment alleging Conspiracy to commit mail and healthcare fraud.

The conspiracy concerned insurance fraud by the abovementioned LRMA, in which that medical practice was described as utilizing various unlicensed individuals to perform medical procedures, and of hiring physicians such as the applicant for purposes of filing fraudulent insurance claims. The indictment alleged documents were filed that stated the applicant performed procedures actually performed by unlicensed individuals; that purported patients received anesthesia when they did not; that exaggerated the length of time a patient had undergone anesthesia; and contained fraudulent medical records signed by the applicant with false or misleading operation notes misrepresenting the patients' conditions (apparently, as stated in preambles within the indictment, that surgeries were medically necessary when they were, in fact, cosmetic surgeries that were not covered by insurance).

- Criminal sentence of the applicant - The applicant was sentenced to five months imprisonment followed by three years of supervised release, five months of which he would serve home confinement, with conditions of

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probation that called for him to make restitution of \$28,585.

APPLICATION FOR RESTORATION

On April 6, 2002, the applicant executed the State Education Department's standard form for applying for restoration of licensure. The application contained information and attachments as referred to, below:

Entries in the basic application form:

Continuing Education - The applicant lists 197 hours of CME as well as annual meetings, refresher courses, meetings with discussions held once a month with two other anesthesiologists, attending Grand Rounds weekly at Brookdale hospital and the applicant's study of articles on the subject of professional misconduct

Volunteer Work - The applicant lists his volunteer work in 2001 at Sunrise Assisted Living, Woodcliff Lake, NJ.

Affidavits - The applicant submits affidavits from five individuals, including three anesthesiologists, one other physician, and his former office manager at his private practice.

Additional attachments to the application:

• Documentation of Continuing Education:

- Letter from the applicant dated April 6, 2001, in which the applicant states: he is guilty of what occurred; that he has loved medicine since childhood; that at 61 years old he is too old to start a new career; that his family has been punished as well as he; that he is ready to

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start fresh; that life experience has been rehabilitative; and that he has become expert on issues of medical professional misconduct and he will not commit any wrongdoing in the future;

- Material about professional discipline process - The applicant attached numerous articles and other material about professional discipline that he has read to familiarize himself with the subject since his revocation.

INVESTIGATIVE INFORMATION

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

O.P.D. investigator's report of September 25, 2002

The report includes a summary of an interview of the applicant by the investigator, which contains the following additional information not previously stated in this report:

- The applicant admitted he was wrong in trying to do too much in his practice, including removing skin lesions while acting as an anesthesiologist.
- He was wrong in writing up records that did not accurately reflect the patients' readings while under anesthesia by writing up charts from data recorded on tape.
- He was not aware that LRMA was under investigation for fraudulent billing and all billing was handled by the practice and not by him.

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- His criminal probation is due to end February 26, 2005 and he has been in compliance with his probation.
- After working as a volunteer as a dining room supervisor at Sunrise Assisted Living for 306 hours, the facility hired him to work four or five hours a day.
- He would like to resume his private practice in pain management.

Letter from OPMC stating its position on the application:

In a letter dated July 31, 2002, OPMC expressed its opposition to the application for restoration, stating:

- That in at least twenty instances, the only other persons present during cosmetic surgery cases at LRMA "where Dr. Spektor served as Director of Anesthesia - besides the Dr. and his patient, was an unlicensed unqualified person." [At this restoration proceeding, the applicant's counsel argued that the OPMC letter is incorrect in stating that the applicant was a Director of Anesthesia, but that he was a one day a week employee].
- That he inappropriately performed surgery and anesthesia at the same time
- That he had been evasive in his answers with respect to questions about how the anesthesia records were created and the equipment's timing mechanism.
- That the applicant was prosecuted as part of an insurance fraud scheme in which the owner of the practice was

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sentenced to eleven years in prison and \$918,209 in restitution

- That the applicant pled to signing documents indicating he performed surgeries he did not perform
- That he answered "no" on the restoration application to the question on whether he had ever been convicted of a crime [At this restoration proceeding, the applicant's counsel argued that the question as written inquired about convictions not related to the revocation proceeding; that the applicant did not hide the conviction anywhere in this process; and that the applicant answered the restoration application question correctly].

PEER COMMITTEE

On March 11, 2003 and March 19, 2003, this Peer Committee met to consider this matter. The applicant appeared before us personally and was represented by an attorney, Amy T. Kulb, Esq. Also present was Wayne L. Keyes, Esq., an attorney from the Division of Prosecutions, OPD.

The applicant and his counsel, in their presentation before us, presented a picture of a doctor who overcame all the great adversities of language and of obtaining qualifications that faced a doctor who immigrated from Russia in the 1970's; who then practiced well and with the greatest respect of his patients and colleagues; but who got caught up with the corrupt situation at one, one-day-a week part-time employment. The applicant stated he fully admits he was wrong to perform anesthesiology and skin

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lesion surgery at the same time. He also stated he was wrong in relying on his employer's representations that those others involved in the procedures were qualified, and relying on the employer's representation that the Health Department stated his activities would be permissible. He stated he now knows it was his responsibility to have personally checked those things. The applicant maintains he knows now that an anesthesiologist must fully concentrate on the vital signs and well being of his patient, and cannot be performing other functions. He also must make contemporaneous notes and not reconstruct those notes, later.

The applicant's current counsel disavows as foolish the strategy of the applicant's former counsel at the discipline hearing of maintaining that the standard of care the applicant was familiar with in Russia allowed him to perform the surgical procedures and the anesthesia simultaneously. His current counsel stated the applicant takes full responsibility in not following the proper standard of care.

The applicant maintained that, as in most institutional settings, he had no awareness of the billing procedures of his employer, and did not know false insurance claims were being filed under his name. He stated that he pled guilty in the criminal matter to avoid the risks of a trial, but that he knows now he is responsible for all billing under his name and he must personally check such paperwork. The applicant's counsel points out that claims for which the applicant was ordered to make restitution amount to a small proportion of the total fraud perpetrated by the

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employer who was sentenced to eleven years in jail; and that the judge made a downward departure from the federal sentencing guidelines in sentencing the applicant.

The applicant's counsel stated that the applicant's presentation would rely on the numbers and strength of his character witnesses and on the applicant's own testimony.

The applicant's witnesses included two physicians he has known since the time that they and the applicant immigrated from Russia and who studied anesthesiology with him. One of the witnesses appeared even though it was only two weeks since his wife had passed away. They both had worked extensively in the past with the applicant before he began his private practice, either during residencies and/or at hospital faculty practices. The two witnesses spoke very positively of the applicant's competence, his caring personal traits and of his integrity. They said the applicant's behavior at LRMA was a departure from everything they knew of him in all other venues. They were at a loss to explain his departure from standards at LRMA though they speculated his judgment might have been affected by a need for money at the time. They have had many conversations with the applicant in which he expressed his great remorse and in which they observed the devastating effect his conduct has had on the applicant and his family.

Both witnesses spoke of the once a month meetings the three of them have held since their early days in this country, which

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continue to the present, in which they discuss their professional experiences and update their knowledge of anesthesiology.

We also heard similar testimony from the director of the applicant's residency where he studied anesthesiology as well as from the former office manager of the applicant's private practice of the 1990's. The office manager testified to the applicant's great dedication. She stated he would often work very long hours on behalf of his patients, even until midnight, and that he frequently would work for free for indigent patients who did not have health insurance.

The former director of the geriatric facility for which the applicant volunteered and then was employed also spoke highly of the applicant. We were told that the applicant helped organize and serve at the dining room of the facility. The applicant was highly regarded by the residents. The applicant was said to interact well with the residences and go to great lengths to see to their well being, and gave greatly of himself without regard to the fact that he was in a humble position in relation to his former status as a physician.

The applicant testified extensively at this proceeding on his own behalf. In addition to the representations by the either the applicant or his counsel already noted in this report, the applicant in his testimony expressed his great remorse including his concern for the effects of his actions on his family. He emphasized the volunteer work he performed that resulted in his employment at the facility despite his past criminal record. He

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spoke of the great gratification he feels in interacting with the residents at the facility at which he works, including the response and improvement he sees from his efforts with those patients suffering from dementia.

The applicant talked of the financial pressures he was under when he took the extra part-time practice jobs, including the one at LRMA. At that time, among other concerns, the expenses of his daughter's entry into college lay before him. When he took the position at LRMA, he knew of Dr. R as a person with some renown as a surgeon. Dr. R's wife performed procedures at the clinic but it was only later that the applicant learned she was not licensed as a physician.

The applicant, in now acknowledging his wrongdoing, said he did not believe his actions were wrong at the time he did them, but realizes it was his responsibility to find out the correct standards and the qualifications of those involved.

The applicant emphasized the CME, including his performance in the examinations administered to test competency. He said, that if his license is restored, he would like to return to anesthesiology and would not be doing any surgery.

He did not seek counseling after his revocation, but says he has learned greatly from the effects of life's experiences. He again stated he would be careful to check the correctness of any procedures he participates in and the qualifications of those he works with, and, in view of all that happened to him, would not be a risk to commit misconduct again. The applicant says his two

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anesthesiology colleagues who testified as well as the director of his former residency who testified would be available to him for guidance and counseling when it comes to making important judgments in his practice in the future.

In her closing statement, Ms. Kulb summarized the presentation and put particular importance on what she termed "the brutal honesty" with which the applicant has acknowledged his wrongdoing. Mr. Keyes, in his closing statement, took no formal position on the application, leaving it to our discretion as to whether the applicant met the burden to show that which would compel the return of his license.

RECOMMENDATION

We have reviewed the entire record in this matter and considered whether the applicant has met the compelling burden to demonstrate he is worthy of the restoration of his license. In doing so, we have considered various criteria, including the degree of the applicant's remorse, rehabilitation and reeducation as well as whether the restoration of the applicant's license would put the health and safety of the public at risk.

The applicant has expressed strong remorse for his past misconduct. While much of his feelings initially were more directed toward the consequences of his actions on himself and his family, we observe that the applicant has more and more come to realize the potential consequences to his patients. He now is aware of the need to be fully attentive to the vital signs of his

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anesthesiology patients and to be aware of the qualifications of those participating in the procedure with him.

As to rehabilitation, the applicant has spent much time and energy on learning the correct standards of care in his field and the rules and obligations of professional conduct. He has also been deeply involved in community service. It is also apparent he has the support network of his medical colleagues, particularly the anesthesiologists with whom he meets and the director of his former medical residency, all of whom are available to him as a source of support and information. The applicant is also highly thought of for his personal caring attributes.

The applicant has striven to redress the deficiencies in his actions that resulted in his revocation. He has undertaken considerable reeducation and participation in activities in the field of anesthesiology.

The circumstances of his revocation appear to revolve around his activities at one part-time employment as against all his other affiliations and his private practice during his over twenty years in this country. The consequences of that lapse have clearly been devastating to him and in general he appears to be a low risk for repeating such behavior again.

However, it is our responsibility to assure that the public is protected against any future misconduct or deficiencies in practice. The applicant's actions, particularly in regard to his simultaneous performance of anesthesiology and skin lesion surgery, raise concerns about either his judgment or his

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competence, regardless of the circumstances at the time. The anesthesiologists who appeared before us all agreed that the applicant's actions violated a bedrock standard of care known to all in the field of anesthesiology. The circumstances raise questions as to the applicant's credibility in claiming not to be aware of the standards at the time and his judgment in succumbing to whatever financial or other pressures caused him to become involved with such a questionable employer; or in the alternative, raise questions as to his level of knowledge or care in practice.

In either case, it is our recommendation to the Board of Regents that the applicant should, before his license is fully restored, be placed on probation and be required to undertake a fellowship of one year in the specialty of anesthesiology, and that the fellowship include concentration on the issues of ethics in anesthesiology and of full monitoring and record keeping of an anesthesiology patient. It is this Peer Committee's belief that such a requirement, combined with the considerable study the applicant has undertaken, would address the issues of reeducation and protection of the health and safety of the public.

It is therefore the unanimous recommendation of this Peer Committee that execution of the revocation of the applicant's license to practice medicine in the State of New York be stayed, that the applicant be placed on probation for eighteen months under the terms of probation attached hereto, made a part hereof and marked as Exhibit "A;" and that upon successful completion of

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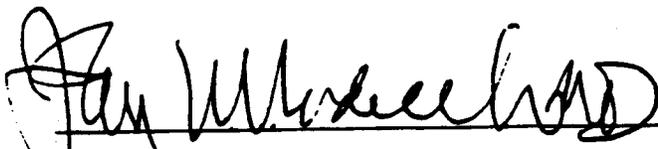
terms of probation numbered 3 and 4, and the applicant having complied with all other terms of probation, the applicant's license to practice medicine in the State of New York be fully restored.

Respectfully submitted

JAMES W.V. CORDICE, JR., M.D.,
CHAIRPERSON

SEYMOUR COHEN, M.D.

FRANCINE COURNOIS, M.D.


Chairperson

Dated

August 7, 2003

EXHIBIT "A"

TERMS OF PROBATION
OF THE PEER COMMITTEE

JOSEPH SPEKTOR

CALENDAR NO. 20570

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 the applicant shall, at the applicant's expense, enroll in, diligently pursue and successfully complete a one year fellowship in anesthesiology -- which shall include training in ethical aspects of practice and in the skills of full monitoring and record keeping of the anesthesiology patient -- said fellowship to be selected by the applicant and previously approved, in writing, by the Director of the Office of Professional Medical Conduct;
4. That, upon written application to and determination by the Director of the Office of Professional Medical Conduct that the applicant has successfully completed the fellowship, as described above, then the applicant shall be discharged from probation;
5. 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;

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6. 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;
7. 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;
8. 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.

EXHIBIT "B"

TERMS OF PROBATION
OF THE COMMITTEE ON THE PROFESSIONS

JOSEPH G. SPEKTOR

1. That the applicant, during the period of probation, shall be in compliance with the standards of conduct prescribed by the law governing the applicant's profession;
2. That the applicant shall submit written notification to the Director, Office of Professional Medical Conduct (OPMC), New York State Department of Health, Suite 303, 4th Floor, Hedley Park Place, 433 River Street, Troy, NY 12180-2299, of any employment and/or practice, applicant's residence, telephone number, and mailing address and of any change in the applicant's employment, practice, residence, telephone number, and mailing address within or without the State of New York;
3. That the applicant shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that the applicant has paid all registration fees due and owing to the NYSED and the 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 the 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;
4. That the applicant shall submit written proof to the DOH, addressed to the Director, OPMC, as aforesaid, that 1) the applicant is currently registered with the NYSED, unless the applicant submits written proof that the applicant has advised DPLS, NYSED, that the applicant is not engaging in the practice of the applicant's profession in the State of New York and does not desire to register, and that 2) the applicant has paid any fines which may have previously been imposed upon the 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;
5. That the applicant shall, at the applicant's expense, enroll in, diligently pursue and successfully complete a one-year fellowship in anesthesiology approved by the Director, OPMC, or a one-year structured retraining program in anesthesiology approved by the Director, OPMC, or a one-year structured practice program in anesthesiology under supervision approved by the Director,

OPMC, which shall include training in ethical aspects of practice and in the skills of full monitoring and record keeping of the anesthesiology patient;

6. That, upon written application to and determination by the Director, OPMC, that the applicant has successfully completed the fellowship or retraining program or practice program, as described above, the applicant shall be discharged from probation;
7. That the 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 the applicant's terms of probation to assure compliance therewith, and the applicant shall cooperate with said employee, including the submission of information requested by said employee, regarding the aforesaid monitoring; and
8. 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.