

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12230

OFFICE OF PROFESSIONAL DISCIPLINE, A.V. ZOGG BLDG., 600 FOURTH STREET, RM. 317, LIVERPOOL, NEW YORK 13088

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OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

May 29, 1996

Teruo Hirose, Physician
5830 Tyndall Avenue
Bronx, New York 10471

Re: Application for Restoration

Dear Dr. Hirose:

Enclosed please find the Commissioner's Order regarding Case No. 96-74-60R which is in reference to Calendar No. 0014722. 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:

A handwritten signature in cursive script, appearing to read 'Gustave Martine'.

Gustave Martine
Supervisor

The University of the State of New York
Education Department

IN THE MATTER

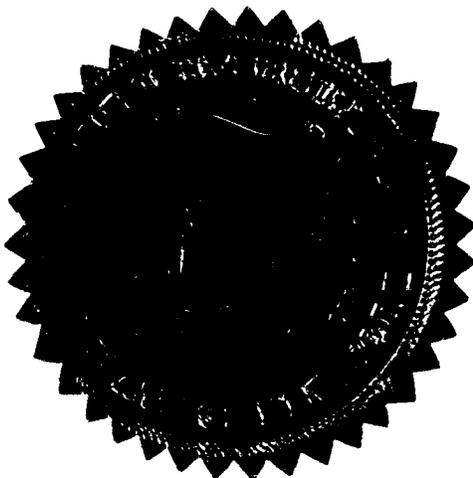
of the

Application of TERUO HIROSE
for restoration of his license to practice
as a physician in the State of New York

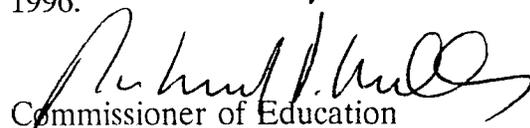
Case No. 96-74-60R

It appearing that the license of TERUO HIROSE, 5830 Tyndall Avenue, Bronx, New York 10471, to practice medicine in the State of New York, having been revoked by action of the Board of Regents on April 14, 1989, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition, and having agreed with and accepted the recommendations of the Peer Review Panel and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on April 24, 1996, it is hereby

ORDERED that the petition for restoration of License No. 094244, authorizing TERUO HIROSE to practice medicine in the State of New York, is denied, but that the execution of the revocation of said license is stayed, and that said TERUO HIROSE is placed on probation for a period of two years under specified terms and conditions.



IN WITNESS WHEREOF, I, RICHARD P. MILLS, Commissioner of Education of the State of New York, for and on behalf of the State Education Department, do hereunto set my hand and affix the seal of the State Education Department at the City of Albany, this 7th day of May, 1996.


Commissioner of Education

Case No. 96-74-60R

It appearing that the license of TERUO HIROSE, 5830 Tyndall Avenue, Bronx, New York 10471, to engage in the practice of medicine in the State of New York, having been revoked by action of the Board of Regents on April 14, 1989, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition, and having agreed with and accepted the recommendation of the Peer Review Panel and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on April 24, 1996, it was

VOTED that the petition for restoration of license No. 094244, authorizing TERUO HIROSE to practice as a physician in the State of New York, be denied, but that the execution of the revocation of said license be stayed, and that said TERUO HIROSE be placed on probation for a period of two years under specified terms and conditions.

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

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

Re: Teruo Hirose

Attorney: Anthony Z. Scher

Teruo Hirose, 5830 Tyndall Avenue, Bronx, New York 10471, petitioned for the restoration of his medical license. The chronology of events is as follows:

- 05/04/65 Issued license number 094244 to practice medicine in New York State.
- 12/07/84 Charged with Professional Misconduct by Department of Health. (See "Disciplinary History.")
- 12/10/84 License summarily suspended by Commissioner of Health.
- 02/10/85 Summary Order vacated.
- 11/05/86 Regents Review Committee recommended remand to designated Hearing Committee.
- 11/21/86 Regents voted remand to designated Hearing Committee.
- 01/21/87 Commissioner's Order effective.
- 02/88 Hearing Committee recommended revocation.
- 05/17/88 Commissioner of Health recommended revocation.
- 03/28/89 Regents Review Committee recommended revocation.
- 04/14/89 Regents voted revocation.
- 07/12/89 Commissioner's Order effective.
- 07/17/89 Temporary Restraining Order granted by Appellate Division of the Supreme Court.
- 09/18/89 Temporary Restraining Order vacated.
- 09/18/89 Revocation effective.
- 07/12/92 Petition for restoration submitted.
- 10/28/94 Peer Panel restoration review.

- 08/14/95 Report and recommendation of Peer Review Panel.
(See "Recommendation of the Peer Review Panel.")
- 01/31/96 Report and recommendation of Committee on the
Professions. (See "Recommendation of the Committee
on the Professions.")

Disciplinary History. (See attached reports of the Regents Review Committees.) On December 7, 1984, the Department of Health charged Dr. Hirose with 26 specifications of professional misconduct. It was charged that Dr. Hirose had practiced the profession of medicine with gross negligence and/or incompetence and with negligence and/or incompetence on more than one occasion. Dr. Hirose was also charged with having practiced the profession of medicine fraudulently and with having committed unprofessional conduct.

On December 10, 1984, the Commissioner of Health summarily suspended Dr. Hirose's license to practice medicine in New York State. Although the Hearing Committee (Corbett, Jacob, Orlov, C. Smith, T. Smith) of the Department of Health recommended that the Summary Order not be vacated, pursuant to Section 230 of the Public Health Law, the Summary Order automatically expired sixty days following its issuance. On March 31, 1986, by a vote of 4-1, the Hearing Committee recommended that Dr. Hirose's license be revoked. On May 30, 1986, the Commissioner of Health recommended revocation. Dr. Hirose requested that the Board of Regents remand the case to the Hearing Committee so that additional evidence could be submitted for consideration. After oral argument and a review of the record, on November 5, 1986, the Regents Review Committee (Griffith, Black, Postel) recommended that the matter be remanded to the designated Hearing Committee for a continued hearing. On November 21, 1986, the Board of Regents voted to remand the matter to the designated Hearing Committee. The Commissioner's Order became effective on January 21, 1987. In February 1988, the Hearing Committee issued a supplemental report in which it recommended that the findings of fact and conclusions in its report of March 31, 1986 be adopted. The Committee further recommended, by a vote of 4 to 1, that Dr. Hirose's license be revoked and that he be found guilty of eight of the specifications of professional misconduct, namely: gross negligence, negligence on more than one occasion, practicing the profession of medicine fraudulently, and committing unprofessional conduct. On May 17, 1988, the Commissioner of Health recommended that the findings of fact, conclusions, and recommendation of the Hearing Committee be accepted. On March 28, 1989, the Regents Review Committee (Griffith, Bolin, Picariello) issued its report. After hearing oral argument and reviewing the entire record, the Regents Review Committee recommended that Dr. Hirose's license be revoked. The Regents Review Committee found Dr. Hirose guilty, wholly or in part, of the same eight specifications of professional misconduct as did the Hearing Committee of the Department of Health. On April 14, 1989, the Board of Regents voted revocation. The Commissioner's Order became effective on July 12, 1989. On

July 17, 1989 the State Education Department was notified that Dr. Hirose had instituted an Article 78 proceeding to contest the action of the Regents and had obtained a Temporary Restraining Order. On September 18, 1989, the Temporary Restraining Order was vacated, and the revocation became effective.

Recommendation of the Peer Review Panel. (See attached report of the Peer Review Panel.) The Peer Review Panel (Iraj, Gujavarty, Santiago) met on October 28, 1994. In its report dated August 14, 1995, the Panel recommended that the revocation of Dr. Hirose's license be stayed and that he be placed on probation for a period of two years under specified terms and conditions including the monitoring of Dr. Hirose's medical practice.

Recommendation of the Committee on the Professions. On January 31, 1996, Dr. Teruo Hirose met with the Committee on the Professions (Szetela, Ahearn, Holcomb) regarding his petition for the restoration of his license as a physician in New York. Dr. Hirose was accompanied by his attorney, Mr. Anthony Scher.

In opening the meeting Mr. Scher addressed inaccuracies in the report of the Peer Review Panel. Mr. Scher cited Pages 2 and 3 of the Peer Review Panel Report which summarizes "allegations adjudged to have occurred." Mr. Scher stated that the Peer Panel Report listed all of the charges against Dr. Hirose and portrayed those as resulting in a finding of guilt when, in fact, the Board of Regents had rejected six of the specific findings listed on Pages 2 and 3. While Mr. Scher wished to clarify this matter as part of the official record, both he and Dr. Hirose stated that they accepted the decision of the Board of Regents as to the findings of guilt. Dr. Hirose stated that the findings against him were instances where he was too aggressive for the medical standards at the time. Dr. Hirose explained that few physicians did these procedures. He stated that frequently the cases referred to him by Mount Sinai Medical Center and Sloan Kettering Hospital were the most difficult cases. Dr. Hirose stated that while he accepted the decision of the Board of Regents in all of the charges against him, he still maintained that while operating on patient B, he did not leave a clamp inside the patient. With this sole exception, he conceded that his practice was too aggressive for the medical standards at the time and he had been negligent in his record-keeping. Mr. Scher pointed out that during the testimony at Dr. Hirose's disciplinary proceeding, radiologists testified that they could not tell from the x-rays that were in evidence whether the clamp was inside or outside the body of the patient.

The Committee inquired of Dr. Hirose how he had changed since the loss of his license and how this would affect his ability to practice should his license be restored. Dr. Hirose stated that the practice of medicine has changed substantially since the early 1980's. We now have Medicare, Medicaid, Health Maintenance Organizations, and guidelines by the American Medical Association and health care institutions. All of these organizations have established standards of practice which did not exist in the 1980's. Dr. Hirose asserted that in the future he would make no

deviation from the standards of practice. He also asserted that he would document very carefully his actions as a physician and that he no longer wished to perform surgery in the more risky cases. Dr. Hirose explained that he had performed over 14,000 surgeries in his over 20 years in the practice of medicine. While this does not excuse any misconduct and negligence on his part, he asked that the Committee consider that he was doing some of the most risky surgeries and that he recognizes that in a few instances mistakes were made. He takes responsibility for those errors.

Dr. Hirose stated that 15 years ago there were no oncologists to serve as specialists that he could consult on many of the risky cases that he handled. He asserted that in the future he would consult with an appropriate specialist, would follow any guidelines that had been established, and that he would avoid doing any of the high-risk surgeries.

Dr. Hirose stated that he regularly returns to Japan, where he is able to practice in a university setting, although the authorities are aware of his situation regarding his New York medical license. Dr. Hirose advised the Committee that he has been a regular contributor to a general medical journal in Japan, and he holds a patent in Japan on a medical instrument that he designed.

Dr. Hirose also discussed with the Committee his service to the Jehovah's Witnesses community. When he lost his license, many individuals in that community were unable to obtain the medical services that they desired. Dr. Hirose stated that he continues to get calls from individuals from this community but he cannot help them. Dr. Hirose stated that this is one of the reasons he would like to have his medical license restored, as he wishes to continue to serve that community.

The Committee agrees with the Peer Review Panel that Dr. Hirose has demonstrated remorse for his actions consistent with consideration for re-licensure and that he has seen the need for outside consultation, the observation of standards of practice, and the documentation of each patient's treatment. Furthermore, Dr. Hirose's continued practice in Japan has maintained his skills at an appropriate level.

After a complete review of the record the Committee on the Professions voted unanimously to support the recommendation of the Peer Review Panel and recommend to the Board of Regents that the Commissioner's Order revoking Dr. Hirose's medical license be stayed and that Dr. Hirose be placed on probation for a two year period under the terms specified in Exhibit B attached to the report of the Peer Review Panel. The Committee further recommends that should Dr. Hirose complete the two years of probation satisfactorily that his license as a physician in New York be restored.

EXHIBIT "B"

TERMS OF PROBATION
OF THE PEER COMMITTEE

TERUO HIROSE

CALENDAR NO. 14722

1. That applicant shall make quarterly visits to an employee of and selected by the Office of Professional Medical Conduct of the New York State Department of Health, unless said employee agrees otherwise as to said visits, for the purpose of determining whether applicant is in compliance with the following:
 - a. That applicant, during the period of probation, shall be in compliance with the standards of conduct prescribed by the law governing applicant's profession;
 - b. That applicant shall submit written notification to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, Empire State Plaza, Albany, NY 12234 of any employment and/or practice, applicant's residence, telephone number, or mailing address, and of any change in applicant's employment, practice, residence, telephone number, or mailing address within or without the State of New York;
 - c. That applicant shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that applicant has paid all registration fees due and owing to the NYSED and applicant shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by applicant to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, no later than the first three months of the period of probation; and
 - d. That applicant shall submit written proof to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) applicant is currently registered with the NYSED, unless applicant submits written proof to the New York State Department of Health, that applicant has

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TERUO HIROSE (14722)

advised DPLS, NYSED, that applicant is not engaging in the practice of applicant's profession in the State of New York and does not desire to register, and that 2) applicant has paid any fines which may have previously been imposed upon applicant by the Board of Regents; said proof of the above to be submitted no later than the first two months of the period of probation;

2. That, during the period of probation, applicant shall have applicant's practice monitored, at applicant's expense, as follows:
 - a. That said monitoring shall be by a physician selected by applicant and previously approved, in writing, by the Director of the Office of Professional Medical Conduct;
 - b. That applicant shall be subject to random selections and reviews by said monitor of applicant's patient records, office records and hospital charts in regard to applicant's practice, and applicant shall also be required to make such records available to said monitor at any time requested by said monitor;
 - c. That all surgery performed by the applicant shall require a pre-operative consultation with an appropriate board certified surgeon or oncologist; and
 - d. That said monitor shall submit a report, once every four months, regarding the above-mentioned monitoring of applicant's practice to the Director of the Office of Professional Medical Conduct;
3. If the Director of the Office of Professional Medical Conduct determines that applicant may have violated probation, the Department of Health may initiate a violation of probation proceeding and/or such other proceedings pursuant to the Public Health Law, Education Law, and/or Rules of the Board of Regents.