



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

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Public

June 6, 2007

Edward Jackson Henderson, Physician
232 Mamaroneck Avenue, Apt. 1A
Mamaroneck, New York 10543

Re: Application for Restoration

Dear Dr. Henderson:

Enclosed please find the Commissioner's Order regarding Case No. CP-06-07 which is in reference to Calendar No. 21492. 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

Ariana Miller
Supervisor

DJK/AM/bt
cc: Earl A. Rawlins
Attorney at Law
103 East 125th Street - Suite 602
New York, New York 10035

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JUN 12 2007
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

The
University of the
Education  State of New York
Department

IN THE MATTER

of the

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

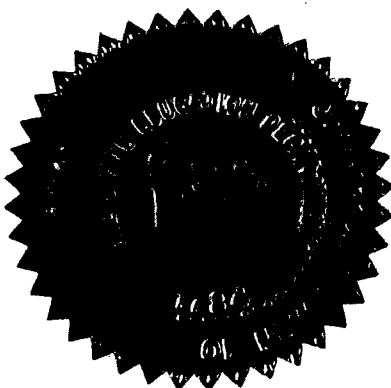
Case No. CP-06-07

It appearing that the license of EDWARD JACKSON HENDERSON, 232 Mamaroneck Avenue, #1A, Mamaroneck, New York 10543, to practice as a physician in the State of New York, was revoked by the Administrative Review Board for Professional Medical Conduct, effective December 2, 1998, and he having petitioned the Board of Regents for restoration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, except having added a condition that he must pass the SPEX examination prior to any stay of the revocation order, now, pursuant to action taken by the Board of Regents on October 24, 2006, it is hereby

ORDERED that the petition for restoration of License No. 118130, authorizing EDWARD JACKSON HENDERSON to practice as a physician in the State of New York, is denied, but upon notification to the New York State Education Department that EDWARD JACKSON HENDERSON has passed the SPEX examination, that the order of revocation of his license be stayed for a period not to exceed 2 years, and said EDWARD JACKSON HENDERSON be placed on probation for a period not to exceed 2 years under specified terms and conditions, 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 23rd
day of May, 2007.


Commissioner of Education



Case No. CP-06-07

It appearing that the license of EDWARD JACKSON HENDERSON, 232 Mamaroneck Avenue, #1A, Mamaroneck, New York 10543, to practice as a physician in the State of New York, having been revoked by the Administrative Review Board for Professional Medical Conduct, effective December 2, 1998, 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, except having added the condition that he must pass the SPEX examination prior to any stay of the revocation order, now, pursuant to action taken by the Board of Regents on October 24, 2006, it was

VOTED that the petition for restoration of License No. 118130, authorizing EDWARD JACKSON HENDERSON to practice as a physician in the State of New York, is denied, but that, upon notification to the New York State Education Department that EDWARD JACKSON HENDERSON has passed the SPEX examination, the order of revocation of his license be stayed for a period not to exceed 2 years, and said EDWARD JACKSON HENDERSON be placed on probation for a period not to exceed 2 years under specified terms and conditions, 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-06-07
October 11, 2006

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: Edward Jackson Henderson

Attorney: Earl A. Rawlins, Esq.

Edward Jackson Henderson, 232 Mamaroneck Avenue, #1A, Mamaroneck, New York 10543, petitioned for restoration of his physician license. The chronology of events is as follows:

- 09/19/73 Issued license number 118130 to practice medicine in New York State.
- 04/09/93 Pled guilty to Attempted Criminal Possession of a Weapon in the 4th Degree, a misdemeanor.
- 05/20/96 Pled guilty in Massachusetts to Assault or Assault and Battery.
- 06/11/98 Charged with professional misconduct by the Department of Health.
- 08/27/98 Hearing Committee of the State Board for Professional Medical Conduct voted revocation.
- 11/24/98 Administrative Review Board for Professional Medical Conduct sustained revocation.
- 12/02/98 Effective date of revocation.
- 01/21/03 Application for restoration submitted.
- 04/13/05 Peer Committee restoration review.
- 10/07/05 Report and recommendation of Peer Committee. (See "Recommendation of the Peer Committee.")
- 12/12/05 Committee on the Professions meeting with applicant.
- 10/11/06 Report and recommendation of Committee on the Professions.

Disciplinary History. (See attached Administrative Review Board [ARB] Decision and Order Number No. 98-203 and Determination and Order BPMC-98-203.) On June 11, 1998, the Department of Health charged Dr. Henderson with two specifications of professional misconduct. The first specification charged Dr. Henderson with having been convicted in New York State of Attempted Criminal Possession of a Weapon in the 4th Degree, a misdemeanor. The second specification charged him with having been convicted in Massachusetts of Assault or Assault and Battery based on conduct which, if committed in New York State, would have constituted the crime of Assault in the 3rd Degree, a misdemeanor. Both specifications related to domestic disputes. The first specification was based on an argument with his former wife that led her to call the police and show them a gun which was in a drawer in their bedroom. The second specification was based on an argument between Dr. Henderson and his current wife which resulted in a physical struggle.

A Hearing Committee of the State Board for Professional Medical Conduct voted to revoke Dr. Henderson's license. He appealed this decision to an Administrative Review Board for Professional Medical Conduct. The Review Board sustained the Committee's determination that Dr. Henderson was guilty of professional misconduct and sustained the determination to revoke his license. The Review Board noted that Dr. Henderson declined to testify at the hearing to explain the circumstances of his criminal convictions, thus depriving the Committee of the "opportunity to test his potential for rehabilitation and his possible value to the medical profession." The revocation of Dr. Henderson's license was effective December 2, 1998.

On January 21, 2003, Dr. Henderson submitted the instant application for restoration of his physician license.

Recommendation of the Peer Committee. (See attached Report of the Peer Committee.) The Peer Committee (Norris, Carone, Imperato) convened April 13, 2005. In its report dated October 7, 2005, the Committee unanimously recommended that the revocation of Dr. Henderson's license to practice as a physician be stayed and that he be placed on probation for two years, during which time his practice would be limited to his participation in a residency or training program. Upon successful completion of the residency or training program and of the other terms of probation, his license to practice medicine in New York State would be fully restored.

Recommendation of the Committee on the Professions. On December 12, 2005, the Committee on the Professions (Duncan-Poitier, Ahearn, Earle) met with Dr. Henderson to consider his application for restoration. Earl A. Rawlins, his attorney, accompanied him.

The Committee asked Dr. Henderson to explain the events that led to the loss of his license. He responded by describing the two incidents that led to the criminal convictions upon which the disciplinary charges against him were based. Both arose from marital disputes. With regard to the first incident, Dr. Henderson told the Committee that he married his first wife in the Philippines but that it took a year before she was allowed to enter the United States. He reported that the relationship lasted only five days after she arrived because he learned that he had contracted a venereal disease from her. He further indicated that in the course of an angry confrontation, he

opened a drawer in which he knew his mother kept a gun and told his then wife to leave, that she became frightened and called the police, and that the police arrested him, keeping him in jail overnight and then releasing him on his own recognizance.

Dr. Henderson described the second incident as having taken place shortly after he married his current wife. He indicated that they had an argument while staying at a hotel in Boston, that things got out of hand, that he restrained her when she tried to scratch him, that she subsequently ran down to the lobby, and that the desk clerk called the police. Dr. Henderson further indicated that following the incident, he served one year of probation and participated for six months in an anger management course as part of the sentence in the resulting criminal proceeding. According to Dr. Henderson, he and his wife have now been married for 11 years and are very close, traveling together all over the world. He described her as his "confidante and best friend" and told the Committee, "I shudder to think I did her any harm."

Dr. Henderson discussed with the Committee how his anger management course had helped him learn how to identify the triggers within himself and how to deal with them without becoming physical. He indicated that over the last ten years there have been no further incidents of physical violence.

In response to a question from the COP concerning the report of the Peer Committee, Dr. Henderson indicated that he understood its recommendation that he be placed on probation for two years during which time he would be limited to practicing in a residency or training program, but that he felt the Peer Committee did not appreciate the amount he had learned from the medical journals he had read. He told the COP that he believed the probationary terms recommended by the Peer Committee to be a little too stringent and that there would be a position available for him in the Department of Psychiatry of Harlem Hospital should his license be restored.

In response to a question concerning why he wished to have his medical license restored, Dr. Henderson spoke about the similarity of his two passions – music and medicine. He related how he had to exercise great discipline both to achieve his status as a well-respected jazz trumpeter and to earn his medical license. He described medicine and music as complementary practices, each contributing to the well-being of the individual, and he told the COP that he now wishes to contribute to his community by again becoming involved in the medical side of his career.

The overarching concern in all restoration cases is the protection of the public. Education Law §6511 gives the Board of Regents discretionary authority to make the final decision regarding applications for the restoration of a professional license. Section 24.7 of the Rules of the Board of Regents charges the COP with submitting a recommendation to the Board of Regents on restoration applications. Although not mandated by 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 that 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, without question, the arguments presented by the petitioner but to weigh and evaluate all of the evidence submitted and to render a determination based upon the entire record.

Dr. Henderson's medical license was revoked based on two criminal convictions, both stemming from marital disputes. The first conviction was in 1993 and resulted from a plea of guilty to a single count of Attempted Criminal Possession of a Weapon in the 4th Degree, a misdemeanor. The second conviction was in 1996 and resulted from a plea of guilty in Massachusetts to a single count of Assault or Assault and Battery; if committed in New York State, the charge to which Dr. Henderson pled guilty would have been Assault in the 3rd Degree, a misdemeanor. The record contains no indication of any issues concerning the care provided by Dr. Henderson when he was practicing as a physician.

In its Determination and Order, dated August 27, 1998, the State Board for Professional Medical Conduct Hearing Committee wrote that it "considered suspension, but was uneasy about the Dr. Henderson's reinstatement without an assessment regarding his fitness to resume medical practice." Accompanying Dr. Henderson's application for restoration of his license is a report of a psychiatric evaluation in which the psychiatrist wrote that he found no evidence that Dr. Henderson was unable to express anger in appropriate ways and "no evidence of a proclivity for violence." There is no indication in the record of any assaultive or violent behavior by Dr. Henderson subsequent to the events leading to the criminal convictions upon which the revocation of his license was based. Additionally, his wife, who was involved in the events leading to the second conviction, has submitted an affidavit acknowledging the existence of marital difficulties in 1995 and 1996 and indicating that they reconciled completely following that incident, that they travel the world together, and that he "is not abusive to me, nor to anyone that he comes in contact with."

Given the circumstances under which Dr. Henderson's license was revoked, the length of time since the occurrence of the incidents which resulted in that revocation, the evaluation of a psychiatrist finding him to be fit to practice, his reconciliation with his wife and the absence of any further violent incidents, and the lack of any evidence in the record that Dr. Henderson ever practiced medicine in an unsafe manner, the COP agrees with the Peer Committee that his license should be restored. As the Peer Committee concluded, the record demonstrates that Dr. Henderson is sincerely remorseful about his conduct and that he has taken significant steps to address the issues underlying his convictions, including his participation in an anti-violence program. As further evidence of his rehabilitation, the Peer Committee noted the inspirational programs he has presented to young people, using his accomplishments in both music and medicine to demonstrate the benefits of hard work in enabling each individual to realize his or her potential.

The COP also agrees with the Peer Committee that Dr. Henderson will need a significant amount of re-education before he is ready to resume the independent practice of medicine. His restoration application indicates that his last period of regular practice as a physician was from 1975 through 1985. Since that time, it appears that he has worked primarily as a musician. As evidence of his re-education, Dr. Henderson

referred to medical journals he reads on a regular basis and submitted certificates of completion for 15 online continuing medical education courses he completed between February and May 2004. While these efforts are commendable, the COP believes that the Peer Committee correctly concluded that such efforts do not provide either a sufficient amount of training or the hands-on training necessary to enable him to resume the practice of medicine in a safe and competent manner. Accordingly, the COP agrees with the Peer Committee that prior to the full restoration of his medical license, Dr. Henderson must complete a residency or training program "of up to two years that concentrates on the basic skills needed by a physician who has been out of practice for a lengthy period of time."

Based on all of the foregoing, a complete review of the record, and its meeting with him, the Committee on the Professions voted unanimously to recommend that the order of revocation of Dr. Henderson's license to practice as a physician in New York State be stayed for a period of two years, that he be placed on probation for a period of up to but not to exceed two years under specified terms attached to the Report of the Peer Committee and labeled as Exhibit "A," and that upon satisfactory completion of the probationary period, his license be fully restored.

Johanna Duncan-Poitier, Chair

Kathy Ahearn

Steven Earle



The University of the State of New York

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

-----X

IN THE MATTER
of the
Disciplinary Proceeding
against

EDWARD JACKSON HENDERSON

REPORT OF
THE PEER
COMMITTEE
CAL. NO. 21492

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

-----X

Edward Jackson Henderson, 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. Said license was revoked by the Office of Professional Medical Conduct, New York State Health Department, as a result of a professional misconduct proceeding. The applicant has applied for of restoration his license.

BACKGROUND INFORMATION

The written application, supporting papers provided by the applicant and papers resulting from the investigation conducted

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by the 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.

PRIOR DISCIPLINE PROCEEDINGS

Action by the State Board for Professional Medical Misconduct

OPMC Hearing committee:

On August 27, 1998, the OPMC hearing committee determined the applicant to be guilty of two specifications of professional misconduct. The hearing committee determined that the applicant's license to practice as a physician in the State of New York be revoked.

Professional Medical Conduct Administrative Review Board:

On November 24, 1998, the Administrative Review Board (ARB), which considered the applicant's request for review of the determination of the hearing committee, sustained the findings, determination on the charges and penalty of revocation set forth by the hearing committee. In doing so, the ARB made the following modifications to the hearing committee's report:

The ARB modified "the statement in the Committee's Determination that the Respondent committed violent acts. The Respondent committed a violent act by choking his wife, which formed the basis of the Massachusetts assault conviction. The New York criminal conviction involved conspiracy to possess a hand gun."

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The ARB also addressed the requirement set forth by the hearing committee that the applicant provide a psychological evaluation should he apply for restoration, with the ARB stating it:

... modifies the provision in the Committee's Order that attempted to place conditions on any application the Respondent may submit for reinstatement. Nothing in the penalty provision in N.Y. Pub. Health Law sec 230-a (McKinney Supp. 1998) provides the Committee the authority to place conditions on reinstatement applications and we note that the State Board of Regents, rather than BPMC, controls the reinstatement process. We modify the Committee's Determination to provide that, if the Respondent applies for License Reinstatement, the Committee recommends that the Regents require the Respondent to submit a psychiatric evaluation by a psychiatrist familiar with the Respondent's violent history.

Order of the Professional Medical Conduct Administrative Review Board:

On November 25, 1998, the order enforcing the penalty was served by mail upon the applicant, effective either upon receipt of the order or seven days after mailing by certified mail.

Specifications of misconduct:

The applicant was found guilty of having been convicted of an act constituting a crime under New York State law (first specification); and having been convicted of an act constituting a crime of another jurisdiction and which if committed within

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this state would have constituted a crime under New York State law (second specification).

Nature of the misconduct

In regard to the first specification, on April 9, 1993, in the Criminal Court of the City of New York, County of the Bronx, the applicant entered a plea of guilty and was found guilty of one count of an attempted criminal possession of a weapon in the fourth degree (a misdemeanor). The discovery of the weapon on the premises by the authorities resulted from a domestic dispute between the applicant and his previous wife, as described by the applicant in his direct testimony before us, summarized in the "Peer Committee" portion of this report, below.

In regard to the second specification, on May 20, 1996, in the Trial Court of Massachusetts, Brighton, MA, the applicant entered a plea of guilty and was found guilty of one count of Section 12A of the Massachusetts Criminal Law, assault or assault and battery, a crime. The conviction resulted from a domestic dispute between the applicant and his current wife at a hotel in Massachusetts, as described by the applicant in his direct testimony before us, summarized in the "Peer Committee" portion of this report, below.

APPLICATION FOR RESTORATION

On November 6, 2001, 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:

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Entries in the basic application form:

Continuing Education: Listing of names of six medical journals

Professional Rehabilitation Activities: The applicant replied to this entry by stating:

Not applicable. The underlying cause for the present suspension was my conviction of the crime of simple assault. I plead guilty to assaulting my wife. Subsequent to that I attended a six-month course in anger management.

Submissions of Affidavits: The applicant submitted six notarized reference letters. Four are from physicians and one from an attorney. The other letter is from a human resources administrator. One of the physicians was the applicant's associate in medical practice in the 1970's and 1980's in San Francisco. The letters attest to the applicant's character but mostly do not directly refer to the charges that resulted in his revocation.

Employment history: The applicant, in addition to his employment as a physician until 1985, lists a 1996 position conducting seminars for a summer youth program; and his self-employment as a musician. The applicant included a letter stating that "From 1996 to the present, I supported myself totally as a professional musician. I did not practice medicine during that period."

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Additional attachments to the application:

- Verifications of expired medical licenses in Georgia and California.
- Verification of the applicant's completion in January 1997 of the Workshop for Anti-Violence Education program (W.A.V.E.) of Elmsford, NY.

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:

- December 23, 2003 report of the OPD investigator which includes additional information and comments of the investigator as follows:
 - Both convictions involved spousal relationships.
 - The applicant declined to testify at his misconduct proceeding.
 - Despite the ARB's recommendation that the applicant submit proof of a psychiatric exam should he apply for restoration, the applicant did not do so with his initial application.
 - The applicant explained his failure to testify at his misconduct hearing, stating he did not deny the charge; subsequently he and his wife have been deeply devoted to each other; and a psychologist testified on his behalf that the applicant was not

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assaultive or a threat.

- That, prior to his investigative interview with OPD for this application, the applicant stated "From 1970 to the present time, and at all times between the stated times under [Part] F [of the application], I was either on tour abroad or engaged in the United States as a jazz musician".
- Subsequent to submitting the application, the applicant's attorney submitted a May 21, 2003 extensive report from a psychiatrist, Dr. B*, reporting the applicant's lack of proclivity for violence and the current good state of the applicant's relationship with his wife. That letter was attached to the investigative report.
- In an interview with the investigator, the applicant, in response to inquiries about the circumstances of his revocation, is quoted in the investigative report as saying:

I was traveling with my wife in Boston for a gig. We had argument - I had to hold her from scratching me. She ran down [stairs] and fainted ... momentarily. The [hotel] desk clerk called police. I went to jail [for] a few days posted \$7500 bond ... received one (1) year

*Initials rather than names may be used in this report when referring to persons other than the applicant, panel members, legal advisor to the Peer Committee, those representing the parties, and those that may appear in any annexed exhibit.

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probation and a course ... I [self] disclosed it [at re-registration], but had no idea of the [eventual] ramifications. I was shocked by revocation, since I'd had no medical [patient-related] problems

- The investigative report then states that the subject is still married to the same woman.
- Subject stated he last practiced medicine full time from 1975 to 1985 in San Francisco, where he practiced general medicine though he had originally done a residency in psychiatry.
- The investigator in his report makes reference to a magazine article, attached to the investigative packet, about the applicant and his dual careers as a physician and a renowned jazz musician.
- April 18, 2003 letter from Dennis J. Graziano, Director, OPMC, setting forth his office's opposition to the current application, stating the petition is "devoid of any explanation of the violent crimes committed by Dr. Henderson against his former wives;" that the applicant does not understand or appreciate why his license was revoked; and that the petition does not appear to meet the standards necessary for restoration.
- Documentation from Westchester County of the applicant's discharge from probation on May 22, 1997.

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PEER COMMITTEE MEETING

On April 13, 2005, this Peer Committee met to consider this matter. The applicant appeared before us personally and was represented by an attorney, Earl A. Rawlins, Esq. Also present was Sherrie B. Thompson, Esq., an attorney from the Division of Prosecutions, OPD.

In his opening statement, Mr. Rawlins, said that, while he was not minimizing the convictions, the first conviction was a misdemeanor and involved a gun found in a drawer in the applicant's mother's house. The second conviction involved an argument between the applicant and his wife, in which the wife left the premises and called the police. Mr. Rawlins stated that the wife wished to withdraw the complaint, but that the authorities would not allow her to do so. Mr. Rawlins said that, since the conviction, the applicant and his wife have lived together peacefully with no such additional problems.

Mr. Rawlins also explained that, at his advice, the applicant chose not to take the stand at the discipline hearing because he did not contest the charges, and that a favorable psychological report was submitted at the hearing. Mr. Rawlins stated the applicant has been remorseful for what occurred and has done all he could to enhance his marital relations. Also, that the applicant has taken continuing medical education and wishes to practice again.

The applicant, in his direct testimony before us, described his two basic employments as a physician as those with Dr. O.J. in

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San Francisco from 1975 to 1985 and at a job in the early 1970's with the Public Health Department in New York City. He also spent two or three summers at a Queens hospital giving seminars to young people, at which he spoke of his accomplishments as a jazz musician and as a physician.

He described the domestic dispute that led to the Massachusetts conviction. He and wife were at a hotel in Boston where the applicant was going to play a musical engagement. He described a "tussle" in which he tried to prevent her from scratching him. She ran from the room and had a fainting spell. The hotel clerk called the police. The applicant said that, in Massachusetts, the state takes over and prosecutes the case, even though his wife wanted to drop the charges.

The applicant stated in his testimony, "... well this is the lady I love, we have been together eleven years - it really hurt me that I hurt her in any kind of way because, you know, this is the lady I love ..." The applicant then displayed two of the musical compact discs he made, on the packaging of which the applicant expressed elaborate loving dedications to his wife.

The applicant stated he benefited from the anger management course he took as a result of the conviction, saying it showed him a side of himself he was unaware of, and taught him techniques to control his anger when it arose.

The applicant also described the circumstances of his weapons conviction, which concerned a dispute with his previous wife. His previous wife is from the Philippines. It took a year for her to

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clear immigration and join the applicant in the United States. Within days, the applicant discovered he contracted a venereal disease from his wife. According to the applicant, the wife, realizing how angry the applicant was, and knowing there was a gun in the drawer of the bedroom they were in, panicked and ran out and called the police and showed the police the gun. The applicant testified to us that the gun, in fact, belonged to his mother, and that he took the rap for the gun charge to protect his mother, with no idea of the ramifications that action would have later on his medical license.

In the direct examination of the applicant, it was revealed that the applicant has had examinations from two mental health professionals who have said he is not a danger. One was from a Dr. R., a psychologist who testified at the disciplinary hearing. The other was from Dr. B., the psychiatrist whose report is referred to above as attached to the investigative report for this proceeding. At our Peer Committee meeting, the applicant through his counsel, introduced a new letter from Dr. B, dated April 12, 2005, affirming the doctor's previous evaluation of May 21, 2003.

The direct examination also referred to the documentation from W.A.V.E (anti-violence program) that is in the packet. Counsel introduced documentation of completion by the applicant since May 2004 of thirty hours of C.M.E. credits from the American Health Consultancy.

The applicant's counsel concluded the direct examination by exploring the quote from a magazine article in which the applicant

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allegedly stated "a monkey can become a doctor." This quote had been singled out by the investigator in his report for this proceeding. The applicant insisted he was misquoted in describing his statements at meetings where he gave encouraging talks to young people. The applicant said he would not have worked so hard to become a doctor and make that statement. He maintains he said that, while it is easy to teach a monkey to do something simple like jump through a hoop, it takes diligence and hard work to achieve something greater, such as the applicant's accomplishments in jazz and medicine.

In her cross-examination, Ms. Thompson endeavored to highlight the applicant's lack of medical practice for twenty years and that the applicant had not fully explained his convictions to those he obtained references from. Ms. Thompson also challenged the applicant's explanation for the "monkey" remark. Ms. Thompson introduced an additional magazine article, which she argued contained words on the same order as the first article. In response, the applicant explained that he used the analogy as he had explained it to us many times in speaking to young people.

In our Committee's questions to the applicant, we established that the recent C.M.E taken by the applicant were on-line courses. Also, that the applicant has not attended medical conferences in twenty years. The applicant expressed his willingness to undergo any further appropriate re-education.

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The applicant also explained why he left his residency training before completion. He had the opportunity to join world-class jazz musicians and pursue his musical career. He told us he wants his license back because of his desire to help people and feels he would be a good asset to the black community.

Before closing arguments, the applicant presented additional documentation of the recent C.M.E. as well as an affidavit from his wife, who could not be at the hearing because she traveled ahead of the applicant who is leaving on a foreign musical tour.

In her closing statement, Ms. Thompson argued that the applicant's efforts at re-education are inadequate. She stated that those courses he did take were taken well after the application was submitted and only involved on-line courses. Ms. Thompson argued that the journals the applicant says he read would be very inadequate education for a doctor out of practice for twenty years.

She maintained he fell short of the criterion of rehabilitation in that the applicant did not show openness and honesty in describing his past problems to those he asked references of for this proceeding. She also said he did not disclose his criminal conduct in his first session with Dr. R., who testified at the discipline proceeding; nor did he mention the first conviction to Dr. B. Also, Ms. Thompson pointed out that the applicant did he did not bring any witnesses to testify at this proceeding.

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Ms. Thompson also believes the applicant has not demonstrated remorse, mentioning in particular the lack of any explanation for his behavior when he submitted the restoration application.

She also re-emphasized the remarks quoted about a monkey being able to practice medicine. She said he lacks respect for the profession, and he lacked credibility when he says he was misquoted, pointing out that he did not maintain he was misquoted on any other point. She argued he has a "lackadaisical attitude" toward the practice of medicine, as demonstrated further by the fact that he has not really practiced for twenty years.

Mr. Rawlins, in his closing, said the applicant's last misconduct occurred more than ten years ago, when he was angered, and Mr. Rawlins does not know how he could show contrition any more than he has. He also countered any doubts expressed about the applicant's choice to pursue opportunities in jazz rather than complete his residency, saying it was a unique opportunity and does not indicate he was blasé' about medicine. Mr. Rawlins also said it was not tenable for the applicant to take many courses when he was not in medicine, but that he has expressed willingness to do so now.

Mr. Rawlins also points out the many good works by the applicant for black children and the good opinion of the applicant that exists of among the people Mr. Rawlins meets.

Finally, Mr. Rawlins said the applicant has done everything he has had to do with the psychiatrists he saw, including being honest.

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POST-MEETING SUBMISSION BY THE APPLICANT

On April 14, 2005 subsequent to our Peer Committee meeting, counsel for the applicant submitted by mail an additional letter, which we have accepted and considered.

RECOMMENDATION

We have reviewed the entire record in this matter, including the written materials received before, during and after our meeting. In arriving at our recommendation, we note that, in a licensure restoration proceeding, the burden is on the applicant to demonstrate that which would compel the return of the license. Greenberg v. Board of Regents of University of New York, 176 A.D. 2d, 1168, 575 N.Y.S. 2d 608, 609. In reaching our recommendation, we consider whether the applicant demonstrates sufficient remorse, rehabilitation and reeducation. However, we are not necessarily limited to such formulaic criteria but may consider other factors, particularly the seriousness of the original offense and, ultimately, our judgment as to whether the health and safety of the public would be in jeopardy should the application be granted.

We take the two convictions very seriously. However, the acts in question occurred over ten and twelve years ago. They involved two domestic disputes not directly related to the practice of medicine. It is clear by the applicant's statements and his demeanor before us that he is very remorseful for those actions, particularly for their effect on his current wife.

As to rehabilitation, we believe the applicant has shown significant efforts toward addressing the underlying issues behind

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his convictions. He has worked on his impulsivity through an anti-violence program and two mental health professionals, all of who have given him positive evaluations on his efforts. There has been no example of further such behavior for ten years. The statements and evidence the applicant presents on his current good relationship with his wife are credible and convincing.

Moreover, the applicant has engaged in worthy activities indicative of his efforts at rehabilitation. He has given inspirational talks and seminars to young people, using his accomplishments to demonstrate the benefits of hard work and the ability of a person to reach his or her potential.

We also observe that any negative intimations by the Department about the applicant's choice to pursue his musical career over completing his residency; or about the interpretation of the remarks quoted from the magazine articles are irrelevant to the issues before us and did not affect the recommendation we have arrived at.

Unfortunately, the applicant's remorse and rehabilitation do not overcome his serious deficiency of re-education and recent experience in the practice of medicine. By any standard, this applicant is not now ready to be fully re-licensed and to practice.

The applicant essentially has not practiced medicine with any degree of regularity for twenty years. He is very weak on educational credentials, relying on his self-reported reading of journals and a small number of recent C.M.E. courses. Furthermore,

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these courses are on-line course and do not provide any of the hands-on training that would be required of anyone out of the practice of medicine for so long. Nor can it be said he has undergone close to the amount of continuing education even a currently licensed physician in good standing must have.

We are impressed by the applicant's sincerity and his accomplishments in achieving a medical degree and becoming a world-class musician. However, our primary obligation is to the health and safety of the public of New York State. In order for the applicant to be seriously considered for restoration of his medical license, he would have to make a choice as to whether he is willing to dedicate himself full-time to the kind of thorough e-training that would prepare him for a return to practice.

As such, our recommendation is that full restoration of his license should only come after a residency or training of up to two years that concentrates on the basic skills needed by a physician who has been out of practice for a lengthy period of time.

Therefore, it is the unanimous recommendation of this peer committee that the revocation of the applicant's license to practice medicine in the State of New York be stayed, and that the applicant be placed on probation for two years, during which time the applicant must successfully complete the terms of probation annexed hereto, made a part hereof, and marked as Exhibit "A," and during which time the applicant's practice of medicine must be limited to his participation in the residency or training program

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described within the terms of probation, and which terms of probation shall require the successful completion of such residency or training program. Upon successful completion of the period of probation and the terms of that probation, the applicant's license to practice medicine in the State of New York would be fully restored.

Respectfully submitted,

James E.C. Norris, M.D. Chairperson
Patrick Carone, M.D.
Pascal J. Imperato, M.D.

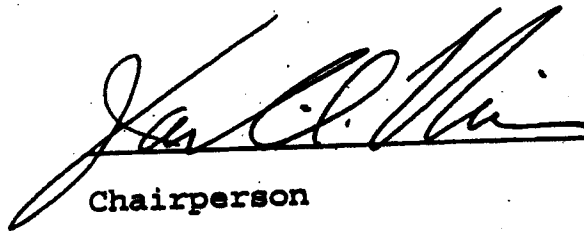
 10/07/05
Chairperson Date

EXHIBIT "A"

TERMS OF PROBATION OF THE PEER COMMITTEE

EDWARD J. HENDERSON
CALENDAR NO. 21492

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 respondent shall, during the period of probation, at applicant's expense, enroll in and diligently pursue a residency or training program designed to update his basic skills in the practice of medicine, said residency or training to be obtained and selected by the applicant and previously approved, in writing, by the Director of the Office of Professional Medical Conduct, said residency to be full time and approximately or up to two years in length and to be satisfactorily completed during the period of probation, such completion to be verified in writing and said verification to be submitted to the Director of the Office of Professional Medical Conduct, unless respondent demonstrates to the satisfaction of said Director that respondent cannot comply with said course requirement and said Director excuses respondent from compliance with said course requirement;
4. During the period of probation, the applicant may not practice the profession of medicine in the State of New York except as part of his participation in the approved residency or training program described in the term of probation, above;
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;

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.