

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

OFFICE OF PROFESSIONAL DISCIPLINE
(718) 246-3060,3061

195 Montague Street - Fourth Floor
Brooklyn, New York 11201

5-394

Public

May 9, 2005

Ezzat Peykar, Physician
49 Redhook Road
Great Neck, New York 11024

Re: Application for Restoration

Dear Dr. Peykar:

Enclosed please find the Commissioner's Order regarding Case No. CP-05-01 which is in reference to Calendar No. 21334. 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

DJK/GM/er

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

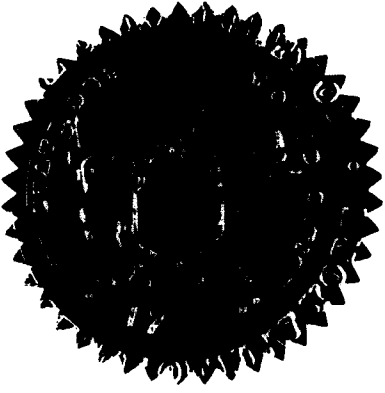
of the

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


Case No. CP-05-01

It appearing that the license of EZZAT PEYKAR, 49 Redhook Road, Great Neck, New York 11024, to practice as a physician in the State of New York, was revoked by a Hearing Committee of the State Board for Professional Medical Conduct, effective October 12, 1998, and he having petitioned the Board of Regents for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 disagreed with the recommendation of the Peer Committee, and having agreed with and accepted the recommendation of the Committee on the Professions, now, pursuant to action taken by the Board of Regents on March 15, 2005, it is hereby

ORDERED that the petition for restoration of License No. 163353, authorizing EZZAT PEYKAR 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 4 years, and said EZZAT PEYKAR be placed on probation for 4 years under the terms and conditions specified by the Board of Regents, 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 29th
day of April, 2005.


Commissioner of Education

Case No. CP-05-01

It appearing that the license of EZZAT PEYKAR, 49 Redhook Road, Great Neck, New York 11024, to practice as a physician in the State of New York, having been revoked by a Hearing Committee of the State Board for Professional Medical Conduct, effective October 12, 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 disagreed with the recommendation of the Peer Committee, and having agreed with and accepted the recommendation of the Committee on the Professions, now, pursuant to action taken by the Board of Regents on March 15, 2005, it was

VOTED that the petition for restoration of License No. 163353, authorizing EZZAT PEYKAR 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 4 years, and said EZZAT PEYKAR be placed on probation for 4 years under the terms and conditions specified by the Board of Regents, 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.

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: Ezzat Peykar

Attorney: Amy Kulb

Ezzat Peykar, 49 Redhook Road, Great Neck, New York 11024 petitioned for restoration of his physician license. The chronology of events is as follows:

- 07/22/85 Issued license number 163353 to practice as a physician in New York State.
- 05/27/98 Charged with professional misconduct by Department of Health.
- 10/02/98 Hearing Committee of Office of Professional Medical Conduct revoked physician license.
- 10/12/98 Effective date of revocation.
- 01/08/02 Submitted application for restoration of physician license.
- 06/09/04 Peer Committee restoration review.
- 11/25/04 Report and recommendation of Peer Committee. (See "Report of the Peer Committee.")
- 01/20/05 Committee on the Professions restoration review.
- 02/18/05 Report and recommendation of Committee on the Professions. (See "Report of the Committee on the Professions.")

Disciplinary History. (See attached disciplinary documents.) On May 27, 1998, the Department of Health charged Dr. Peykar with professional misconduct based on his conviction of committing an act constituting a crime under federal law. Specifically, the Department alleged that Dr. Peykar pled guilty in United States District Court for the Eastern District of New York on December 16, 1997 to Medicare Fraud, a class A

misdemeanor. The charges indicated that the misdemeanor information to which he pled stated that Dr. Peykar "did knowingly and willfully cause materially false statements to be made by others in connection with applications for payments under Subchapter XVIII of Chapter 7 of Title 42, to wit, that patients required the use of certain medical equipment and supplies when, in fact, they did not." The Department of Health stated that Dr. Peykar was sentenced to two years of probation, four months of which were home confinement, and ordered to pay a fine of \$5,000. A Hearing Committee of the State Board for Professional Medical Conduct determined that he was guilty of the charge of professional misconduct and voted to revoke his license. The revocation was effective October 12, 1998.

Dr. Peykar submitted an application for restoration of his physician license on January 8, 2002.

Recommendation of the Peer Committee. (See attached "Report of the Peer Committee.") The Peer Committee (Diamond, Robinson, Lerner) met with Dr. Peykar on June 9, 2004 to review his application for restoration. In its report, dated November 25, 2004, the Committee voted unanimously to recommend that the order of revocation of his license be stayed. However, the Committee recommended that he complete a retraining program before he is allowed to resume the practice of medicine. Further, the Committee recommended that, after satisfactory completion of the retraining program, Dr. Peykar be placed on probation for three years under specified terms and conditions, including a restriction that he could practice medicine only as a salaried physician in a hospital or other Article 28 facility.

Recommendation of the Committee on the Professions. On January 20, 2005, the Committee on the Professions (Duncan-Poitier, Frey, Templeman) met with Dr. Peykar to review his application for restoration. Amy Kulb, his attorney, accompanied him. Dr. Peykar presented the Committee with documentation of two additional hours of continuing medical education he completed in October and December of 2004.

The Committee asked Dr. Peykar to explain what led to the revocation of his license. He replied that he was sorry for what happened and was not here to defend himself. He said, "I've learned from my mistakes. I'm a different person now than I was before." Dr. Peykar told the Committee that after completing his residency in 1985, he opened a practice in Brooklyn in an underserved area. He reported that a few years later he opened a second practice in Great Neck closer to his home. He said that in 1993, "a so-called lawyer approached me to buy my Brooklyn practice." Dr. Peykar indicated that at the time he thought he was selling the practice to another physician licensed in New York State but later found out that although the purchaser was licensed as a physician in Iran, he was not licensed to practice medicine in this State. He said that the lawyer referred to the buyer as "doctor."

Dr. Peykar indicated that after the sale of the practice, he agreed to practice from the Brooklyn location two days a week until his patients could be absorbed into the new

practice. He said that the practice was expanded to include other health professionals, such as a podiatrist, and office personnel were shared. He reported that he paid \$500 a month in rent and office expenses prorated for the two days that he was there. Dr. Peykar said that the new owner of the practice brought in another physician licensed in New York State to take over the medical practice. He reported that many of his patients thought the new physician was ill and they wanted Dr. Peykar to continue treating them. Consequently, Dr. Peykar said that he stayed with the Brooklyn practice longer than he anticipated. He reported that he had written a prescription for a patient and later found out that "a guy from surgical supply" had added a mattress to the items he had prescribed for the patient.

Dr. Peykar said that he now realizes that he should have spent more time and paid more attention to what was happening at the Brooklyn practice. He indicated that it was his responsibility to make certain his prescriptions were not altered. He explained the purpose of the Medicare program and indicated how fraud deprives those who need medical services. He described his activities to stay current in the medical profession, including his attendance at medical conferences and Grand Rounds at New York Hospital Queens. In response to the Committee's inquiry, Dr. Peykar said that he had no problems with the reeducation or probation terms recommended by the Peer Committee. He suggested that the Committee might consider supervisory controls in lieu of the retraining since no questions regarding his competency were ever raised. When asked about the comment from the Department of Health that he had told the court that he had surrendered his license when, in fact, he hadn't, Dr. Peykar said he had contacted the State Education Department when he became ill in 1997 to have his registration changed to an inactive status. He indicated that it was not his intent to mislead anyone since he could not practice while his registration was inactive.

In closing, Dr. Peykar told the Committee that a "license equals trust" and said, "I hope I can get back your trust." He indicated that he was ashamed because he had betrayed that trust. He said that a physician's responsibility is to his patients but added that a physician also has the responsibility of maintaining his/her integrity. Dr. Peykar said that he would make certain that he takes the necessary steps to maintain his integrity and indicated that he could be a very productive physician were his license restored.

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, without question, the arguments presented 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 concurs with the Peer Committee that Dr. Peykar "demonstrated sincere remorse" and found that he has taken responsibility for the misconduct that led to the loss of his license. Dr. Peykar emphasized that the role of a physician is more than just taking care of patients and that the physician has a responsibility to maintain his/her integrity and the integrity of the medical profession. He was able to explain how fraudulent billings undermine the Medicare system and deprive individuals from the care and services they might need. The COP found Dr. Peykar's responses to its questions straightforward and credible. Department records indicate that Dr. Peykar's registration to practice medicine was placed on an inactive status on June 25, 1997, as he had indicated. Dr. Peykar has been involved in community service. He discussed the steps he would take to make certain that he does not overextend himself and can adequately monitor his practice were his license restored. He has identified the root causes of his misconduct and the COP agrees with the conclusion of the Peer Committee that "the risk of future misconduct by the applicant is very low and that restoration of his license to practice medicine in New York State does not pose a risk to the public." Regarding his current competency, the COP accepts the judgment of the Peer Committee that Dr. Peykar should complete a retraining program before resuming the independent practice of medicine. However, since the order of revocation must be stayed and Dr. Peykar placed on probation before he can practice during a retraining program, the COP has modified the Peer Committee's recommendation to allow that restricted practice during the first part of the probationary period without changing the context of the Peer Committee's recommendation.

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. Peykar's license to practice as a physician in New York State be stayed for four years, that he be placed on probation for four years under specified terms attached to this report and labeled as Exhibit "C," and that upon satisfactory completion of the probationary period, his license be fully restored.

Johanna Duncan-Poitier, Chair

Joseph Frey

Leslie Templeman

EXHIBIT "C"

TERMS OF PROBATION
OF THE COMMITTEE ON THE PROFESSIONS

EZZAT PEYKAR

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 obtain a clinical competency assessment performed by a program for such assessment as directed by the Director of OPMC. Respondent shall cause a written report of such assessment to be provided directly to the Director of OPMC within sixty (60) days of the effective date of this Order;

6. That the applicant shall be responsible for all expenses related to the clinical competency assessment and shall provide to the Director of OPMC proof of full payment of all costs that may be charged. This term of probation shall not be satisfied in the absence of actual receipt, by the Director, of such documentation, and any failure to satisfy shall provide a basis for a Violation of Probation proceeding;
7. At the direction of the Board and within 60 days following the completion of the clinical competency assessment (CCA) the applicant shall identify a Preceptor, preferably a physician who is board certified in the same specialty, to be approved in writing, by the Director of OPMC;

The applicant shall cause the Preceptor to:

- a. Develop and submit to the Director of OPMC for written approval a remediation plan, which addresses the deficiencies /retraining recommendations identified in the CCA. Additionally, this proposal shall establish a timeframe for completion of the remediation program of not less than three months and no longer than twelve months;
 - b. Submit progress reports at periods identified by OPMC certifying whether the Respondent is fully participating in the personalized continuing medical education program and is making satisfactory progress towards the completion of the approved remediation plan;
 - c. Report immediately to the Director of OPMC if the Respondent withdraws from the program and report promptly to OPMC any significant pattern of non-compliance by the applicant; and
 - d. At the conclusion of the program, submit to the Director of OPMC a detailed assessment of the progress made by the applicant toward remediation of all identified deficiencies.
8. That the applicant can only practice medicine within the parameters established for the remediation program until the Director of OPMC has determined that the applicant has satisfactorily completed the remediation program;
 9. That the applicant, once the remediation program has been satisfactorily completed, shall practice medicine for the duration of the period of probation only as a salaried physician in a hospital or other Article 28 facility;
 10. 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

11. 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.



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 Application of

EZZAT O. PEYKAR

**REPORT OF
THE PEER
COMMITTEE
CAL. NO. 21334**

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

-----X

The applicant was authorized to practice as a physician in
the State of New York by the New York State Education Department.

PRIOR DISCIPLINE

The applicant's license to practice medicine in the State of
New York was revoked effective October 12, 1998.

The applicant was charged with committing professional
misconduct by having been convicted of a crime under federal law.
On December 16, 1997, in the United States District Court for the
Eastern District of New York, judgment as entered after he pled
guilty to Medicare fraud, a Class A Misdemeanor. The Misdemeanor
information to which he pled stated that he "did knowingly and
willfully cause materially false statements to be made by others

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in connection with applications for payments under Subchapter XVIII of Chapter 7 of Title 42, to wit, that patients required the use of certain medical equipment and supplies, when, in fact, they did not."

The applicant was sentenced to two years of probation, four months of the probation included home confinement, under the direct supervision of the Probation Department. He was also fined \$5,000.

According to investigative information, court documents revealed that the applicant "sold" his practice to a non-physician who was the head of two medical supply firms, for \$10,000.

Following a hearing before the Board for Professional Medical Condcut, the applicant's medical license was revoked. The Hearing Committee determined that the applicant's testimony at the hearing "was evasive and he was not forthcoming. He was not a credible witness." The hearing Committee also noted that in the August 27, 1997 Transcript of Pleadings, U.S. District Court, the applicant affirmed that he had surrendered his physician license when, in fact, he had not done so.

THE APPLICATION

On January 8, 2002 the applicant petitioned the New York State Education Department for the restoration of his license to practice as a physician in the State of New York.

Regarding his continuing medical education (CME) and how it

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is relevant to his prior misconduct the application states:

"My misdemeanor conviction related to Medicare billing and there were no specific courses that would address the ethical issues, so I have addressed this with self reflection, spiritual counseling, religious readings, and journal articles on ethics. I have attended conferences, read journals, and researched on line [sic] in order to keep my medical knowledge up to date."

In response to the question: "List any professional practice-related rehabilitation activities which you have undertaken to address the action(s) which resulted in the loss of your license." The application states:

"The specific conduct underlying the misdemeanor conviction that resulted in the loss of my license related to Medicare claims and not to my skill as a physician and, specifically, a physical medicine specialist. I have, however, read journal articles on medical ethics, insurance billing and office management in order to educate and rehabilitate myself on the wrongdoing that led to my conviction. I have also examined my misconduct through self reflection and spiritual counseling in order to rehabilitate myself."

The community service that the applicant said he has been involved in since the revocation of his license includes:

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Lectures on diet/nutrition at the Alborz Club in 1999 and 2001, 3 hours. Lectures on preventative medicine at Hadassa in 1998, 2 hours. Participation in educational and cultural activity at Alborz Club from 1997 to 2002, 60 hours. Visiting cancer, cardiac and stroke patients at North Shore Hospital and Long Island Jewish Hospital, 80 hours.

INVESTIGATIVE INTERVIEW

The applicant was interviewed in connection with his restoration application. He stated the following: He stated that he did his residency at Long Island Jewish Hospital. In 1985, he completed his residency. He opened a practice in Brooklyn. In 1987, he opened an office closer to his home in Great Neck. In 1993, a man approached him. He stated that he had several medical clinics and he was interested in buying a practice. The applicant sold him his Brooklyn practice. The applicant's Brooklyn office was part of a professional office which included a dentist, podiatrist and another internist. When the applicant's secretary was out, one of the other secretaries took over. The applicant stated that one of the secretaries sold a list of patients' names. He also stated that a mattress was added to one of his prescriptions without his knowledge. When he became aware of the fraud, he did not do anything about it. He said he is very sorry for what occurred. He has learned a very hard lesson regarding protecting one's Medicare Provider Number to prevent its illegal

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use. He also learned that he has to be more aware and responsible for what he is signing.

The applicant stated he has kept up with the profession by subscribing to the Journal of the American Medical Association. He attends lectures at Long Island Jewish Hospital approximately twice a month. He submitted a certificate from North Shore Long Island Jewish Health System confirming his attendance at a Critical Care Symposium: Managing Severe Infections in the ICU. He was awarded 4.5 Category I Credits. He submitted a letter from New York Hospital Queens confirming that he attended Medical Grand Rounds and Gastroenterology Conferences between July 2002 and July 2003. The applicant submitted a letter from the Ester Chapter of Hadassa regarding his volunteer work.

THE MEETING

On June 9, 2004 this Peer Panel met to consider the application in this matter. The applicant appeared and was represented by Amy Kulb, Esq. Sherrie B. Thompson, Esq. represented the Division of Prosecutions of the Office of Professional Discipline.

After preliminary opening remarks by the Chairperson the Department offered an additional document which was accepted and marked as Department's Exhibit 1.

The applicant offered three more certificates regarding CME which were accepted and marked as applicant's Exhibit A.

Upon questioning by Ms. Kulb the applicant said that he

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thought the individual (Dr. Sadigh) he sold his Brooklyn practice to was licensed as a physician in New York. It turned out that Dr. Sadigh was a licensed physician in Iran (the applicant's native Country) but he was not licensed in New York State. The applicant did not know Dr. Sadigh before becoming involved in the sale of his Brooklyn practice.

Upon further questioning about the sale of said practice the applicant said that under the contract of sale (a copy of which was introduced into the record as applicant's Exhibit B) the applicant was to remain at the Brooklyn office two days a week, Monday and Wednesday from 10:00 a.m. to 2:00 p.m., for which the applicant was to pay rent of \$500 per month. The applicant, at that time, was also in the process of developing a practice in Great Neck, New York.

The applicant went on to say that he did not have an attorney representing him in this sale but Dr. Sadigh had an attorney, Mr. Carmine Conicliane.

The applicant said he sent fliers to his patients telling of the sale of the practice. After the sale of the practice Dr. Sadigh put a Dr. Warner, who was a licensed physician in New York State, into the Brooklyn office. It turned out that Dr. Warner was ill and some patients thought he had AIDS. These patients did not want to be treated by Dr. Warner and preferred to continue to be treated by the applicant which required the applicant to stay longer as part of the Brooklyn practice than the applicant had

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anticipated. He did not get free of the Brooklyn practice for over two years from the sale of said practice. During this time period or shortly thereafter the applicant discovered that a mattress had been added to a prescription that the applicant had written for one of his patients at the Brooklyn office and that Medicare had been billed for said mattress. The applicant did not report this to Medicare. The applicant said he did not receive any funds from this fraud.

The applicant did later report other irregularities to Medicare involving unnecessary prescribing at the Brooklyn office. The applicant conceded however, that he had not kept his prescription pad in a secure place in the Brooklyn office and others could have had access to said pad.

The applicant went on to say that around the time of the criminal action against him he became very ill and was diagnosed with ALS. He said he placed his medical license on inactive status because he was too ill to work. He said this is why he told the criminal court that he had given up his medical license. He said his license was later revoked by OPMC (Office of Professional Medical Conduct) because of his criminal conviction.

Continuing with his testimony the applicant said that he did not do much CME between 1998 and 2002 because of his illness. He said that in 2001 he began to feel better and got another medical opinion which indicated that he did not have ALS after all but was suffering from another condition altogether that is not life

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threatening. He said that when he learned this he became interested in working towards having his medical license restored. In that regard, the applicant said that between course work, reading medical journals, seminars and attending Grand Rounds at area hospitals he approximated that he has done perhaps 800 hours of CME. Upon questioning by the panel the applicant conceded that he had not taken any course in managing a medical office but he had talked to some fellow physicians about how they managed their offices. He said he thought it would be a good idea for him to take such a management course even though, if his license were restored, he would not want to go back to private practice but would prefer to join a group practice and not be involved with administration or billing. He said he recognized, however, that keeping proper patient records is part of administration and billing.

Regarding the anger the applicant initially felt about his conviction and the loss of his license, he said the anger was really at himself for allowing the events to happen and that he recognizes that he is the one who is at fault for all that has happened regarding these events.

CLOSING STATEMENTS

Ms. Thompson closed by saying that she did not think the applicant's license should be restored. She said that, although the applicant says he has done some 800 hours of CME, he has only documented some 122 hours of CME. Ms. Thompson went on to say

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that although the applicant says he accepts full responsibility for what happened, in his testimony he still seems to be blaming his secretary and others.

Ms. Thompson also pointed out that the applicant brought no witnesses to the meeting and the character letters he supplied seem to be only from people at the synagogues the applicant attends and not from people in other aspects of the applicant's life.

Ms. Thompson also noted that there is no documentation in the record about the applicant's medical condition, past or present.

Ms. Kulb Closed by saying the applicant answered all questions to the best of his ability and acknowledged his wrongdoing. She said that the applicant has demonstrated a totally different understanding of his responsibilities as a physician today than that which he had at the time of his wrongdoing.

Ms. Kulb went on to say that the applicant has done a great deal of CME but if the Panel wished to require further CME or anything else of the applicant that the applicant will accept those requirements. She stated that the applicant, if given a second chance, would never again betray the trust required of an individual who is licensed as a physician in the State of New York.

RECOMMENDATION

We unanimously recommend that the application herein be granted and that the revocation of the applicant's license to practice medicine in the State of New York be stayed. The applicant had made a good effort at reeducation and rehabilitation through his CME courses, the reading of medical journals, attending Ground Rounds, his teaching and his other involvement in community service.

The applicant has also demonstrated sincere remorse before this Panel. The Panel strongly believes this based on our observation of the applicant's demeanor before us throughout this proceeding. The applicant has taken responsibility for the acts that led to his criminal conviction and loss of licensure.

We believe the applicant has been punished enough. The Panel believes the risk of future misconduct by the applicant is very low and that restoration of his license to practice medicine in New York State does not pose a risk to the public.

However, we further unanimously recommend that before the applicant is allowed to resume the practice of medicine he must undergo a course of retraining under a program such as that set forth in the terms of probation attached hereto and marked as Exhibit "A".

We also unanimously recommend that after said retraining, the applicant be placed on probation for three years under the terms of probation attached hereto and marked as Exhibit "B".

EZZAT O. PEYKAR (21334)

Respectfully submitted,

Martin Diamond, DO, Chairperson
Benjamin Robinson, JD
Robert G. Lerner, MD

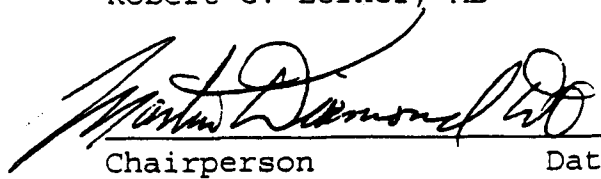
 11/25/04
Chairperson Dated

EXHIBIT "A"

RETRAINING

1. Applicant shall obtain a clinical competency assessment performed by a program for such assessment as directed by the Director of OPMC (Office of Professional Medical Conduct). The applicant shall cause a written report of such assessment to be provided directly to the Director of OPMC within sixty (60) days of the effective date of the Order herein.
2. Applicant shall be responsible for all expenses related to the clinical competency assessment and shall provide to the Director of OPMC proof of full payment of all costs that may be charged. This term of probation shall not be satisfied in the absence of actual receipt, by the Director, of such documentation, and any failure to satisfy shall provide a basis for a Violation of Probation proceeding.
3. At the direction of the Board and within 60 days following the completion of the clinical competency assessment (CCA) the applicant shall identify a Preceptor, preferably a physician who is board certified in the same specialty, to be approved in writing, by the Director or OPMC.
4. The applicant shall cause the Preceptor to:
 - a. Develop and submit to the Director of OPMC for written approval a remediation plan, which addresses the deficiencies/retraining recommendations identified in the CCA. Additionally, this proposal shall establish a timeframe for completion of the remediation program of not less than three months and no longer than 12 months.
 - b. Submit progress reports at periods identified by OPMC certifying whether the applicant is fully participating in the personalized continuing medical education program and is making satisfactory progress towards the completion of the approved remediation plan.
 - c. Report immediately to the Director of OPMC if the applicant withdraws from the program and report promptly to OPMC any significant pattern of non-compliance by the applicant.
 - d. At the conclusion of the program, submit to the Director of OPMC a detailed assessment of the progress made by the applicant toward remediation of all identified deficiencies.

EXHIBIT "B"

TERMS OF PROBATION
OF THE PEER COMMITTEE

EZZAT O. PEYKAR

CALENDAR NO. 21334

1. That applicant, during the period of probation, shall practice medicine only as a salaried physician in a hospital or other Article 28 facility;
2. That applicant, during the period of probation, shall be in compliance with the standards of conduct prescribed by the law governing applicant's profession;
3. 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, 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;
4. That during the period of probation, applicant shall have quarterly performance reports submitted to the New York State Department of Health (DOH), addressed to the Director, Office of Professional Medical Conduct, as aforesaid from applicant's employer, evaluating his performance as a physician in his place of employment, said reports to be prepared by applicant's supervisor or employer.
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 to be submitted by applicant to the 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

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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 non-compliance with or any other violation of any of the aforementioned terms of probation, the OPMC may initiate a violation of probation proceeding.