

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12230

OFFICE OF PROFESSIONAL DISCIPLINE, A.V. ZOGG BLDG., 800 FOURTH STREET, RM. 317, LIVERPOOL, NEW YORK 13088

March 15, 1995

RECEIVED
APR 24 1995
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

Libico Mario DiBlasio, Physician
385 McLean Avenue, Apt. 12-G
Yonkers, New York 10705

Re: Application for Restoration

Dear Dr. DiBlasio:

Enclosed please find the Commissioner's Order regarding Case No. 94-204-60R which is in reference to Calendar No. 0014412. This order and any decision contained there in goes into effect five (5) days after the date of this letter.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations

By: *Gustave Martine*

Gustave Martine
Supervisor

cc: Scott I. Eininger, Esq.
Fager and Amsler
Two Park Avenue
New York, New York 10016

The University of the State of New York
Education Department



IN THE MATTER

of the

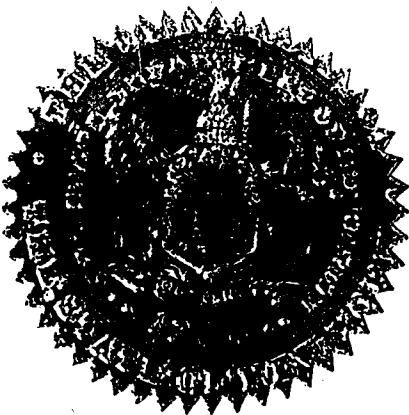
Application of LIBICO MARIO DIBLASIO
for restoration of his license to practice
as a physician in the State of New York

Case No. 94-204-60R

It appearing that the license of LIBICO MARIO DIBLASIO, 385 McLean Avenue, Apt. 12-G, Yonkers, New York 10705, to practice as a physician in the State of New York, was revoked by action of the Board of Regents on September 18, 1987, and he having petitioned the Board of Regents for restoration of said license, and the Regents having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 Committee on the Professions, now, pursuant to action taken by the Board of Regents on February 3, 1995, it is hereby

ORDERED that the petition for restoration of license No. ¹³²⁷⁴⁰~~132470~~, authorizing LIBICO MARIO DIBLASIO to practice as a physician in the State of New York, is denied, but that the execution of the order of revocation of said license is stayed, and petitioner is placed on probation for a period of two years under certain terms and conditions.

IN WITNESS WHEREOF, I, THOMAS SOBOL,
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 3rd
day of March, 1995.



Thomas Sobol
Commissioner of Education

Case No. 94-204-60R

It appearing that the license of LIBICO MARIO DIBLASIO, 385 McLean Avenue, Apt. 12-G, Yonkers, New York 10705, to practice as a physician in the State of New York, having been revoked by action of the Board of Regents on September 18, 1987, 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 Committee on the Professions, now, pursuant to action taken by the Board of Regents on February 3, 1995 it was

VOTED that the petition for restoration of license No. 132470, authorizing LIBICO MARIO DIBLASIO to practice as a physician in the State of New York, be denied, but that the execution of the order revoking said license be stayed, and that petitioner be placed on probation for a period of two years under certain terms and conditions.

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

**LIBICO MARIO DIBLASIO
aka MARIO DIBLASIO**

CALENDAR NO. 7284

1. That petitioner 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 petitioner is in compliance with the following:
 - a. That petitioner, during the period of probation, shall be in compliance with the standards of conduct prescribed by the law governing petitioner's profession;
 - b. That petitioner 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, petitioner's residence, telephone number, and mailing address, and of any change in petitioner's employment, practice, residence, telephone number, and mailing address within or outside the State of New York;
 - c. That petitioner shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that petitioner has paid all registration fees due and owing to the NYSED and petitioner 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 petitioner 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;
 - d. That petitioner 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) petitioner is currently registered with the NYSED, unless petitioner submits written proof to the New York State Department of Health, that petitioner has advised DPLS, NYSED, that petitioner is not engaging in the practice of petitioner's profession in the State of New York and does not desire to register, and that 2) petitioner has paid any fines which may have

previously been imposed upon petitioner 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 petitioner shall have quarterly performance reports submitted to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, from petitioner's employer, evaluating petitioner's performance as a physician in petitioner's place of employment, said reports to be prepared by petitioner's supervisor or employer;
3. That petitioner shall remain drug-free during the period of probation. Petitioner shall submit himself for monitoring in regard to the use of drugs by a facility to be chosen by petitioner and approved by the New York State Department of Health, after obtaining prior written approval by the New York State Department of Health, said facility to conduct an examination of petitioner at least once every three months during the period of probation, at such times as said facility may choose, at petitioner's expense, said examination to include urine samples for the detection of any drug in petitioner. Petitioner shall submit or cause to be submitted a written report from and signed by an authorized person from said facility, once every three months during the period of probation, in which said authorized person shall state whether the presence of any drug(s) has been detected by virtue of the said examination and shall also indicate the name of said drug(s). In the event any drug(s) is detected, the petitioner shall submit a sworn affidavit explaining the use of said drug(s), as well as any other papers petitioner wishes to submit in that regard. The said reports and affidavits, as well as any other papers, shall be forwarded to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid. If any information is received by the New York State Department of Health indicating that petitioner is not drug-free and/or not fit to practice his profession, such information shall be processed to the Board of Regents for its determination in a violation of probation proceeding initiated by the New York State Education Department and/or such other proceedings pursuant to the Education Law and/or Rules of the Board of Regents;
4. If the Director of the Office of Professional Medical Conduct determines that petitioner 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.

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: Libico Mario DiBlasio
aka Mario DiBlasio

Attorney: Scott I. Einiger

Libico Mario DiBlasio, 385 McLean Avenue, Apt. 12-G, Yonkers, New York 10705, petitioned for the restoration of his medical license. The chronology of events is as follows:

- 10/07/77 Licensed to practice medicine in New York State.
- 07/03/85 Charged with professional misconduct by Department of Health. (See "Disciplinary History.")
- 01/08/86 Regents Review Committee recommended that license be revoked, execution stayed, five years probation.
- 01/22/86 Board of Regents voted revocation, stayed, five years probation.
- 03/26/86 Commissioner's Order effective.
- 02/17/87 Charged with professional misconduct by Department of Health.
- 09/04/87 Regents Review Committee recommended that license be revoked.
- 09/18/87 Board of Regents voted revocation.
- 11/10/87 Commissioner's Order effective.
- 06/18/92 Petition for restoration submitted.
- 11/19/93 Peer Panel restoration review.
- 08/01/94 Recommendation of Peer Review Panel. (See "Recommendation of the Peer Review Panel.")
- 11/16/94 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.) In 1985, the Department of Health charged Dr. DiBlasio with professional misconduct in that he had been found by the Commissioner of Health to be in violation of Article Thirty-Three of the Public Health Law. The violations included issuing prescriptions not in good faith and/or not in the course of his professional practice, and falsely writing on the official New York State triplicate prescription that the drugs were for patients. In addition, he failed to maintain a comprehensive written patient record with respect to certain prescriptions, and some prescriptions lacked the date the prescriptions were signed. Dr. DiBlasio also prescribed Schedule II narcotics to a person who was an addict or habitual user of controlled substances, and failed to report that fact.

In addition to the imposition of a \$16,000 civil penalty, Dr. DiBlasio's right to use official New York State triplicate prescription forms was suspended for a period of 24 months.

On January 8, 1986, the Regents Review Committee (Sclafani, Newcomb, Picariello) recommended that Dr. DiBlasio's license be revoked, that said revocation be stayed, and that he be placed on probation for five years under specified terms and conditions. On January 22, 1986, the Board of Regents voted to accept the recommendation of the Regents Review Committee. The Commissioner's Order became effective on March 26, 1986.

On November 6, 1986, in the Supreme Court of the State of New York, Kings County, Dr. DiBlasio was convicted after trial of criminal acts committed during July 1985 which involved the sale and possession of cocaine. Dr. DiBlasio was sentenced to the following terms to be served concurrently:

- (1) 21 years to life on each of two counts of Criminal Sale of a Controlled Substance in the First Degree;
- (2) 8 1/2 years to life on one count of Criminal Sale of a Controlled Substance in the Second Degree;
- (3) 8 1/2 to 25 years on one count of Criminal Sale of a Controlled Substance in the Third Degree; and
- (4) 5 to 15 years on one count of Criminal Possession of a Controlled Substance in the Fourth Degree.

Consequently, on February 17, 1987, the Department of Health charged Dr. DiBlasio with professional misconduct in that he had been convicted of committing an act constituting a crime under New York State Law.

On September 4, 1987, the Regents Review Committee (Griffith, Bolin, Picariello) recommended that Dr. DiBlasio's license be

revoked. On September 18, 1987, the Board of Regents voted revocation. The Commissioner's Order became effective on November 10, 1987.

In May 1991, the United States Court of Appeals for the Second Circuit, upheld the judgment of the United States District Court for the Eastern District of New York overturning Dr. DiBlasio's conviction. At his subsequent retrial, Dr. DiBlasio was convicted of Criminal Possession of a Controlled Substance in the Fourth Degree. Dr. DiBlasio was sentenced to a conditional discharge.

Recommendation of the Peer Review Panel. (See attached report of the Peer Review Panel.) The Peer Review Panel (Iraj, Cournos, Corbett) met on November 19, 1993. In its report, dated August 1, 1994, the Panel recommended that the revocation of Dr. DiBlasio's license be stayed, and that he be placed on probation for five years under specified terms and conditions, including submission of quarterly performance reports by his supervisor or employer, and periodic drug monitoring.

Recommendation of the Committee on the Professions. On November 16, 1994, the Committee on the Professions (Szetela, Ahearn, Sauer) reviewed the petition of Dr. Mario DiBlasio for the restoration of his license as a physician in New York. Dr. DiBlasio appeared personally along with his attorney, Scott I. Einiger. Dr. DiBlasio also updated the record in regard to his continuing education, and provided the Committee with additional documentation of continuing education credits earned up through July 1994.

In his opening remarks to the Committee, Dr. DiBlasio stated that he was very happy with the report of the Peer Panel and its recommendation that his license be restored with certain restrictions. Dr. DiBlasio readily admitted that he had been addicted to drugs. At first, his addiction was to pills. Dr. DiBlasio stated that in mid-1984 he had ceased using pills but began using cocaine. He stated that, in October of 1984, he resigned his position at the hospital where he worked due to his addiction. The Committee questioned what would have happened to him if he had not been arrested on the criminal charges for drug sale and possession. Dr. DiBlasio responded that he probably would have died from an overdose of drugs. He stated that his arrest was a life saving event.

In response to the Committee's question as to his plans should his license be restored, Dr. DiBlasio stated that he wished to work doing diagnostic radiology. He asserted that he had begun in this field as an x-ray technician and had fallen in love with the practice of radiology. Dr. DiBlasio said that one of his former colleagues, I. Akiva Wulton, M.D., who now leads the radiology department at Brookdale Hospital Medical Center, Brooklyn, New

York, has offered him a position at Brookdale Hospital should his license be restored and his credentials be reviewed and approved by that Hospital's credentials committee.

The Committee inquired of Dr. DiBlasio what support systems were currently in place should he find himself in extremely stressful circumstances. Dr. DiBlasio replied that he now has a network of support including Rabbi Koslowe, the Reverend George Weber at the New York Theological Seminary, and Father McCabe, Chaplin at Montefiore Hospital where he has worked since 1991.

In reviewing the record, the Committee on the Professions notes that it is clear the petitioner has recognized the problem that was the root cause of his professional misconduct, and he has dealt with that problem. As of the date of the meeting with the Committee on the Professions, Dr. DiBlasio stated he has been drug free for over nine years. Petitioner's rehabilitation from his drug addiction is adequately documented in the record. The record also contains ample evidence of applicant's serious efforts at reeducation and continuing education in the field of radiology. It is also clear from the record and petitioner's personal appearance with the Committee on the Professions that he is remorseful over the actions that resulted in the loss of his license, and that he has made efforts to give back to the community the benefit of his counseling through his work over the last three years in counseling individuals on substance abuse. The Committee agrees with the finding of the Peer Review Panel that applicant has met the requirements of remorse, rehabilitation, and reeducation that apply in restoration cases. However, the Committee does not agree with the Peer Panel's recommendation to temporarily restrict applicant's practice solely to the area of radiology. The Peer Panel review meeting occurred in November of 1993. In the intervening year, the petitioner has continued his efforts toward additional education. The Committee on the Professions believes this, in combination with the credentials review practices of hospitals, will sufficiently address the Peer Panel recommendation.

In addition, the Committee recommends a two-year probationary period as opposed to the five years recommended by the Peer Panel. This would be consistent with the actions taken by the Board of Regents on similar cases in the past where revocations have been stayed. In addition, the probationary terms as recommended by the Peer Panel have been updated with minor technical corrections, and are appended to this report and recommendation of the Committee on the Professions as Attachment "A".

After a complete review of the record and the petitioner's personal appearance, the Committee on the Professions voted unanimously to recommend to the Board of Regents that the revocation of Dr. DiBlasio's license to practice medicine in New York be stayed and that he be placed on probation for a two-year period under the terms and conditions attached to this recommendation.

