

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

OFFICE OF PROFESSIONAL DISCIPLINE  
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5802

June 30, 1994

Hervel Faulknor, Physician Assistant  
852 East 216th Street  
Bronx, New York 10467

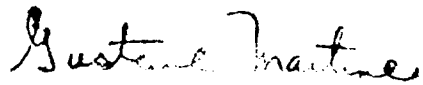
Re: Application for Restoration

Dear Mr. Faulknor:

Enclosed please find the Commissioner's Order regarding Case No. 94-1-23R which is in reference to Calendar No. 0013788. 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  
Supervisor

cc: William L. Wood, Esq.  
The Harwood Building  
Scarsdale, New York 10583

The University of the State of New York  
Education Department



IN THE MATTER

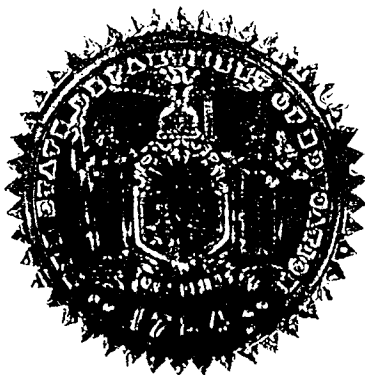
of the

Application of HERVEL FAULKNOR  
for restoration of his registration to practice  
as a physician assistant in the State of New York

Case No. 94-1-23R

It appearing that the registration of HERVEL FAULKNOR, 852 East 216th Street, Bronx, New York 10467, to practice as a physician assistant in the State of New York, having been revoked by action of the Board of Regents on October 24, 1986, and he having petitioned the Board of Regents for restoration of said registration, and the Regents having given consideration to said petition, and having agreed with and accepted the recommendations of the Peer Review Panel and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on May 20, 1994, it is hereby

ORDERED that the petition for restoration of registration No. 000361, authorizing HERVEL FAULKNOR to practice as a physician assistant in the State of New York, is denied, but that the execution of the revocation of said registration is stayed, and said HERVEL FAULKNOR is placed on probation for a period of one year, under the annexed 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 20<sup>th</sup> day of June,  
1994.

*Thomas Sobol*

Commissioner of Education

Case No. 94-1-23R

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VOTED that the petition for restoration of registration No. 000361, authorizing HERVEL FAULKOR to practice as a physician assistant in the State of New York, be denied, but that the execution of the revocation of said registration be stayed, and that said HERVEL FAULKOR be placed on probation for a period of one year under certain terms and conditions.

## TERMS AND CONDITIONS

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 one year period of his 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, or mailing address, and of any change in petitioner's employment, practice, residence, telephone number, or mailing address within or without the State of New York;

c. That petitioner shall, during the term of his probation, 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 assistant in petitioner's place of employment, said reports to be prepared by petitioner's supervisor or employer;

d. 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;

e. 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. 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.

March 9, 1994

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

Report of the Committee on the Professions  
Application for Restoration of  
Registered Physician Assistant License

Re: Hervel Faulknor

Attorney: William L. Wood

Hervel Faulknor, 852 East 216th Street, Bronx, New York 10467, petitioned for restoration of his registered physician assistant license. The chronology of events is as follows:

- 09/28/75 Licensed to practice as a registered physician assistant in New York State.
- 02/05/85 Pled guilty to violating §6512(1) of the Education Law. (See "Disciplinary History.")
- 09/25/86 Regents Review Committee recommended that license be revoked.
- 10/24/86 Regents voted revocation.
- 01/21/87 Commissioner's Order effective.
- 05/13/88 First petition for restoration received.
- 01/18/90 Report of the Peer Review Panel.
- 06/16/90 Report and recommendation of the Committee on the Professions.
- 07/26/90 Board of Regents voted to deny restoration.
- 10/02/90 Commissioner's Order effective.
- 12/09/91 Second petition for restoration submitted.
- 06/18/93 Peer Panel restoration review.
- 11/01/93 Recommendation of Peer Review Panel. (See "Recommendation of the Peer Review Panel.")
- 03/09/94 Report and recommendation of Committee on the Professions. See ("Recommendation of the Committee on the Professions.")

Disciplinary History. (See attached report of the Regents Review Committee.) On February 5, 1985, Mr. Faulknor pled guilty to violating §6512(1) of the Education Law, a class E felony. Between May, 1982 and January 31, 1983, Mr. Faulknor, acting in concert with others, being a person not authorized to practice medicine, did file, furnish, obtain and attempt to file, furnish and obtain by fraudulent means a diploma purporting to authorize the practice of a profession. Said diploma was from CETEC University awarding the degree of Doctor of Medicine. On March 22, 1985, Mr. Faulknor was sentenced to a three year period of conditional discharge.

On April 24, 1986, the Department of Health charged Mr. Faulknor with professional misconduct in that he had been convicted of committing acts constituting a crime under New York State law. On September 25, 1986, the Regents Review Committee (Sclafani, Bolin, Picariello) recommended that Mr. Faulknor's license be revoked. On October 24, 1986, the Board of Regents voted to revoke Mr. Faulknor's registered physician assistant license. The Commissioner's Order became effective on January 21, 1987.

Recommendation of Peer Review Panel. (See attached report of the Peer Review Panel.) The Peer Review Panel (Lopez, Jordan, Roman) met on June 18, 1993. In its report, dated November 1, 1993, the Panel recommended that the revocation of Mr. Faulknor's license be stayed, and that he be placed on probation for one year under specified terms and conditions including the submission of quarterly reports by his supervisor or employer.

Recommendation of the Committee on the Professions. On March 9, 1994, the Committee on the Professions (Szetela, Ahearn, Sauer) reviewed the petition of Havel Faulknor for the restoration of his license as a physician assistant. Mr. Faulknor appeared personally and was represented by his attorney, William L. Wood, Jr., Esq.

The Committee has reviewed the Peer Review Panel report and the record accompanying it, and has determined that the findings and conclusions of the Peer Review Panel are amply supported by the record, though for reasons set forth below the Committee has recommended that the Peer Review Panel's terms of probation be modified.

Mr. Faulknor opened his presentation to the Committee by stating that the events that led to the revocation of his license were based on his getting caught up in trying to achieve his goals too quickly. Mr. Faulknor said that he now recognizes he made a big mistake and is sorry for it. Mr. Faulknor stated that he was to blame for what happened because he made the decision to take a shortcut. Mr. Faulknor explained that he allowed emotional concerns to override rational concerns. Mr. Faulknor stated that, as a result of his decision, he suffered severe consequences. Mr.

Faulknor added that he would now like to pick up the pieces of his life and get his physician assistant license back.

The Committee asked Mr. Faulknor to describe the circumstances that led to his misconduct. Mr. Faulknor responded that he had been trained as a physician assistant at Harlem Hospital and that he then had gone on to be a student at the University Del Noreste medical school in Mexico from 1979 to 1981. Mr. Faulknor continued by saying that he met a representative of the CETEC University medical school who said that the school would accept his physician assistant experience and graduate him early as a physician. Mr. Faulknor said that he found this offer very appealing and allowed himself to get carried away by choosing to take this route. Mr. Faulknor said that in either 1982 or 1983 he paid approximately \$7,000 to \$8,000 for a copy of a medical degree from CETEC University. Mr. Faulknor explained that he believed the offer to be legal at the time, but later found out that it was not. Mr. Faulknor said that he did not step back at the time to look at the offer. Mr. Faulknor said that he first became suspicious of the offer when he went down to the Dominican Republic to visit CETEC University, and later became aware of the offer's illegality when he was contacted by the District Attorney upon his return to the United States. Mr. Faulknor said that his initial understanding was that the school was going to use his physician assistant experience as a substitute for the two year internship required by the Mexican medical school he was already attending. Mr. Faulknor said that his main purpose in accepting this offer was that he would not have to go back to Mexico. Mr. Faulknor added that he did take the CETEC University examination in Queens, New York.

Mr. Faulknor said that when he realized the harm that could befall patients by not going through the necessary training, he applied to another medical school, the University of the Caribbean, to try to remedy the shortcut he had taken. Mr. Faulknor also said that he could see the harm that befell other physician assistants who had taken the same shortcut he had taken.

The Committee asked Mr. Faulknor why he had included among his recommendation affidavits one from a physician assistant who had his license revoked for the same criminal conviction as Mr. Faulknor. Mr. Wood responded that it was his idea to include this particular recommendation, and that he had wanted it included because the author had his physician assistant license restored and he wished to draw attention to this parallel with Mr. Faulknor's case. Mr. Faulknor added that he had met Mr. Johnson, the physician assistant who wrote the recommendation, at Harlem Hospital. Mr. Faulknor said that Mr. Johnson was only one of many persons who had fallen into the same trap he did.

The Committee asked Mr. Faulknor what he would do if his license was restored to him. Mr. Faulknor responded that he intends to continue his current employment as a human



immunodeficiency virus case administrator, but that he will be able to do more with his physician assistant license than he presently can do. Mr. Faulknor explained that his duties right now are limited in terms of treatment. Mr. Faulknor added that he would be more useful to patients if he had his physician assistant license restored. Mr. Faulknor also pointed out that he would be able to be promoted to a position calling for a physician assistant license.

Mr. Faulknor concluded his presentation to the Committee by stating that when his first restoration petition was denied he had not realized that he should have continued his education. Mr. Faulknor explained that he embarked on such study after that denial. Mr. Faulknor also stated that he had a bad attitude at the time of the first denial, and had not really accepted responsibility for his actions at that time. Mr. Faulknor said that he does accept the responsibility for his actions now. Mr. Faulknor added that he no longer has the strength to be a physician, and that he has no more aspirations in this regard.

Mr. Wood addressed the Committee in summation to say that Mr. Faulknor had lost fifteen years of his life and that Mr. Faulknor recognizes that he has cost himself his dream of becoming a physician. Mr. Wood said that Mr. Faulknor could be a very adequate physician assistant, and that this would be a help to Mr. Faulknor's present employer that would pose no risk to the public. Mr. Wood pointed out that other physician assistants had their licenses restored under similar circumstances, though he acknowledged that each case is different and must be decided on its own merits.

The Committee found Mr. Faulknor to be credible and candid about his misconduct. Mr. Faulknor appeared to have confronted and dealt with the ramifications of his criminal conviction in a thorough and satisfactory manner. The Committee concluded that it would be best for Mr. Faulknor to undergo a one year probationary term, to include quarterly performance reports from Mr. Faulknor's employer, due to the length of time that Mr. Faulknor has been out of practice as a physician assistant. The Committee accepted, in substance, the probation terms recommended by the Peer Review Panel, but noted that those terms were procedurally defective because they referred to the Education Department and not the Department of Health as the probation monitoring agency. Pursuant to Section 230 of the New York State Public Health Law, the Department of Health is the appropriate monitoring agency for physician assistants placed on probation.

Based upon all the foregoing, the Committee unanimously found that Mr. Faulknor has demonstrated the remorse, rehabilitation, and reeducation essential to restoration of his license as a physician assistant. The Committee also unanimously found that Mr. Faulknor would benefit from probation that would include quarterly

performance reports from Mr. Faulknor's employer. Accordingly, the Committee unanimously recommended that the revocation of Mr. Faulknor's license to practice as a physician assistant be stayed, and that he be placed on probation for one year under the terms specified below, said terms to include quarterly performance reports from his employer.

Daniel W. Szetela, Chair

Kathy A. Ahearn

Richard J. Sauer