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

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PUBLIC

November 19, 2004

Tirtadharyana Haryadi, Physician
84 Sweeney Street, Apt. 223
North Tonawanda, New York 14120

Re: Application for Restoration

Dear Dr. Haryadi:

Enclosed please find the Commissioner's Order regarding Case No. CP-04-12 which is in reference to Calendar No. 21083. 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

cc: Roger Wilcox, Esq.
42 Delaware Avenue – Suite 300
Buffalo, New York 14202

The
University of the
Education  State of New York
Department

IN THE MATTER

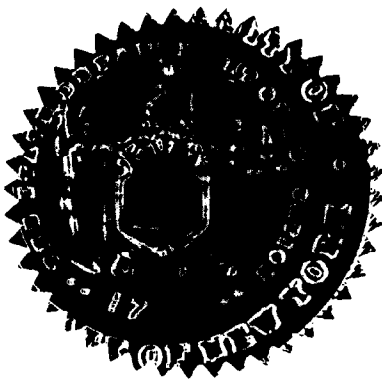
of the

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

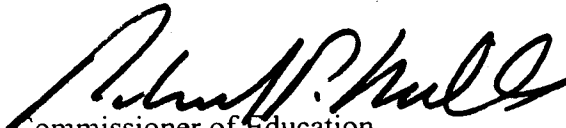
Case No. CP-04-12

It appearing that the license of TIRTADHARYANA HARYADI, 84 Sweeney Street, #223, North Tonawanda, New York 14120, to practice as a physician in the State of New York, was revoked by the Board of Regents, effective August 10, 1990, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given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 July 21, 2004, it is hereby

ORDERED that the petition for restoration of License No. 129564, authorizing TIRTADHARYANA HARYADI to practice as a physician in the State of New York, be denied.



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 *5th*
day of November, 2004.


Commissioner of Education

Case No. CP-04-12

It appearing that the license of TIRTADHARYANA HARYADI, 84 Sweeney Street, #223, North Tonawanda, New York 14120, to practice as a physician in the State of New York, having been revoked by the Board of Regents, effective August 10, 1990, 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 July 21, 2004, it was

VOTED that the petition for restoration of License No. 129564, authorizing TIRTADHARYANA HARYADI to practice as a physician in the State of New York, be denied.

Case number
CP-04-12
June 25, 2004

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: Tirtadharyana Haryadi

Attorney: Roger Wilcox

Tirtadharyana Haryadi, 84 Sweeney Street, #223, North Tonawanda, New York 14120 petitioned for restoration of his physician license. The chronology of events is as follows:

- 12/17/76 Issued license number 129564 to practice as a physician in New York State.
- 09/15/89 Pled guilty in Supreme Court, County of Erie, State of New York, to two counts of Sexual Abuse in the First Degree (class D felony) and one count of Sexual Abuse in the Second Degree (class A misdemeanor). (See "Disciplinary History.")
- 02/16/90 Charged with professional misconduct by Department of Health.
- 06/26/90 Regents Review Committee voted to revoke license.
- 07/27/90 Board of Regents voted to revoke license.
- 08/10/90 Commissioner's Order effective.
- 08/05/02 Submitted application for restoration of physician license.
- 11/18/03 Peer Committee restoration review.
- 03/01/04 Report and recommendation of Peer Committee. (See "Report of the Peer Committee.")
- 05/07/04 Committee on the Professions restoration review.
- 06/25/04 Report and recommendation of Committee on the Professions. (See "Report of the Committee on the Professions.")

Disciplinary History. (See attached disciplinary documents.) On February 16, 1990, the Department of Health charged Dr. Haryadi with professional misconduct based on his conviction of committing an act constituting a crime under New York State law. The charges specified that in a 42 count indictment in Erie County, State of New York, Dr. Haryadi was charged with nine counts of Sexual Abuse, First Degree; nine counts of Rape, First Degree; nine counts of Rape, Third Degree; five counts of Endangering the Welfare of a Child; seven counts of Sexual Abuse, Third Degree; two counts of Menacing; and one count of Attempted Rape, First Degree. The forty-second count was later dismissed. Further, the charges stated that by plea entered on September 15, 1989 in Supreme Court, County of Erie, Dr. Haryadi pleaded guilty to two counts of Sexual Abuse in the First Degree (class D felony) and to one count of a lesser included offense of Sexual Abuse in the Second Degree (class A misdemeanor). Lastly, the charges stated that the plea was accepted and Dr. Haryadi was sentenced to a term of imprisonment of not less than two years and not more than six years upon the counts of Sexual Abuse in the First Degree and to a definite sentence of one year upon the offense of Sexual Abuse in the Second Degree, all of which were to run concurrently.

On June 26, 1990, a Regents Review Committee determined that Dr. Haryadi was guilty of the charge of professional misconduct and voted to revoke his license. The Board of Regents concurred with the Review Committee's recommendation and Dr. Haryadi's license was revoked, effective August 10, 1990.

Dr. Haryadi submitted an application for restoration of his physician license on August 5, 2002.

Recommendation of the Peer Committee. (See attached "Report of the Peer Committee.") The Peer Committee (Corona, Anthon, Colgan) met with Dr. Haryadi on November 18, 2003 to review his application for restoration. In its report, dated March 1, 2004, the Committee voted by a vote of 2-1 to recommend that the order of revocation of his license be stayed and that he be placed on probation for ten years under specified terms and conditions. During the probationary period, he would be required to engage in regular relapse prevention therapy and practice only in a supervised practice.

Recommendation of the Committee on the Professions. On May 7, 2004, the Committee on the Professions (Duncan-Poitier, Frey, Earle) met with Dr. Haryadi to review his application for restoration. Roger Wilcox, his attorney, accompanied him. Prior to the meeting, Dr. Haryadi presented the committee with a letter from Dr. Brian S. Joseph indicating that he would be willing to either consult and/or participate in relapse prevention therapy for Dr. Haryadi and would be willing to be his supervisor to the extent practical. The Committee also received a letter from Otto Ahtziger, Clinic Manager, indicating that Dr. Haryadi would be able to return to the Niagara County Department of Mental Health, Niagara Falls Clinic, if he is in need of treatment services.

The Committee asked Dr. Haryadi to explain what led to the loss of his license. He said that he was convicted of the sexual abuse of two stepdaughters and the attempted sexual abuse of his youngest stepdaughter. He reported that the abuse

occurred in 1986 and 1987. The Committee asked that he elaborate on the reasons for his misconduct. Dr. Haryadi indicated that he was married in 1975 and assumed responsibility for three stepdaughters and one stepson. He reported that his wife was abusing alcohol and drugs and that he had to assume the role of taking care of everyone. He indicated that he was under financial pressure, as his wife would give away their money while she was intoxicated. Dr. Haryadi told the Committee that he became verbally and physically abusive to his children, that he would strike them, and that it was a "horrible situation." He indicated that he created two artificial worlds – one at home and one professional. He reported that as time went on he began to treat his children as friends, seeking their support and thinking of them more as adults than as children. Dr. Haryadi stated that he became more and more attracted to one of his stepdaughters, who he considered the opposite of him. He said that at the time he rationalized his sexual behavior by telling himself that they were not related by blood and that she was more mature than a 15-year-old. He stated that he began to think of her as "sort of a sexual partner." Eventually, he indicated that he sexually abused another stepdaughter. Dr. Haryadi said that his actions were brought to the attention of the authorities after two of the stepdaughters went to their natural father, who brought the abuse to the attention of a lawyer.

The Committee asked Dr. Haryadi what impact his abuse had on his stepchildren. He replied, "It was a tremendous devastation of the trust as their father." He said that the children felt guilt and shame and the abuse devastated their lives. He reported that his son "went through hell for not being able to protect his sisters."

The Committee asked Dr. Haryadi to describe what was different about him now. He replied that, through therapy, he has come to recognize what he did and how he got there. He indicated that at the time the abuse occurred, he insisted on "doing things that were in conflict." He said that he now understands that when he becomes overwhelmed, an alarm will go off -- even though it has yet to come to that point. He stated, "I will stay three steps ahead of that point."

The Committee asked Dr. Haryadi if he, as a psychiatrist, realized he needed the help of a psychiatrist. He replied in the affirmative but indicated that he only talked informally with colleagues. He reported that he was not really telling them what was going on. He indicated that often he would arrange for his wife's treatments out-of-town so that there would be no involvement with his colleagues. Dr. Haryadi said he did not seek professional help because at the time he was still rationalizing his behavior. He stated, "I could not stop and step back. I had to handle everything. Then I would be admitting I can't take care of it and I'm a psychiatrist." In response to the Committee's inquiry, Dr. Haryadi said that the abuse would have continued until his stepdaughters did something to terminate the situation. He told the Committee, "It was clear to me something was very wrong. I just couldn't stop."

Dr. Haryadi said that he is not in contact with one of his stepdaughters although she lives in the next town. He reported that she is still close to his wife and he understands that she lost her job and is depressed. He said that his stepson was doing well, as far as he knew. He reported that he had only been in phone contact with him a few times and is not sure if he is currently in counseling. He indicated that his stepson

had a drinking problem but understood that he had stopped drinking. He reported that all the stepchildren have been involved with counseling at various times. He said that healing for his stepchildren would be a lifelong process. Dr. Haryadi said that he has two young grandchildren and their mother does not feel he is a danger to them. He said that his family is "comfortable knowing I went to therapy." He told the Committee that he does not feel children would be in jeopardy if his license were restored as nothing has ever happened with other teenage children.

Dr. Haryadi said that he and his therapist decided together that no further treatment was necessary, as they had completed all the phases of therapy. He indicated that should the need arise, people who are intimately aware of his situation are only a phone call away. He said, "My family and friends would do something. They know me."

The Committee asked, "How do you feel – as a man and as a professional?" Dr. Haryadi replied, "Very, very upset and angry at myself." He continued. "I still feel as much as I did then." He indicated that he realizes he needs to get over his guilt in order to have a relationship with his family. He told the Committee that he hurt all of them terribly and that pain and sadness lingers, even with healing. Dr. Haryadi said that the children were in his care and that he altered their lives in a bad way. He stated, "They were totally innocent."

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 minority that restoration of the applicant's physician license at this time would represent a threat to the public. One of the factors in considering restoration of a license is the severity of the original misconduct. Dr. Haryadi told the COP that he sexually abused two stepdaughters and attempted to sexually abuse another. Further, he said that he physically abused his stepchildren and stated that it was a "horrible situation." Dr. Haryadi told the COP that he knew what he was doing at the time was wrong but couldn't stop. He admitted that the abuse would have continued until someone else took action to stop it.

The COP notes that Dr. Haryadi was practicing as a psychiatrist at the time of his misconduct but failed to seek therapy from another professional to help stop doing what he knew was wrong. Rather, he told the COP that he tried to hide his home life from his colleagues and even had his wife receive treatment in other towns so that his colleagues would not know of her addiction. His actions, contrary to the heart of his profession, resulted in psychological damage to each member of his family, which lingers today. Dr. Haryadi continues to be estranged from two of his stepchildren, both of whom still have psychological problems. He mentioned the negative effects his actions had on his stepchildren, but the COP was not convinced that he truly understood his level of responsibility for what has happened to them. Dr. Haryadi mentioned being overwhelmed as one reason for abusing his stepchildren but did not clearly articulate the root causes of his behavior or why his behavior differed in the home and professional settings. Dr. Haryadi mentioned his family as one of the primary safeguards in place for him, but the COP questions this safeguard when looking at the current vulnerability and instability of the family structure. In opposing Dr. Haryadi's application for restoration, the Department of Health questioned whether Dr. Haryadi, himself a psychiatrist, fully appreciates the long-standing and possibly permanent issues related to the repeated abuse he inflicted upon his stepchildren.

The COP notes that the Peer Committee majority recommended that Dr. Haryadi be placed on probation for 10 years and that during that 10-year period he be required to engage in regular relapse prevention therapy and practice only in a supervised practice. With such restrictions over a 10-year period, the COP finds that the recommendation raises questions as to whether Dr. Haryadi presented sufficient evidence for the privilege of having his license restored at this time. The COP finds that Dr. Haryadi failed to present a compelling case to demonstrate that similar misconduct would not recur were his license restored and concurs with the Peer Committee minority that restoration of Dr. Haryadi's license would represent a threat to the public at this time.

Therefore, after a careful review of the record and its meeting with him, the Committee on the Professions voted unanimously to concur with the minority recommendation of the Peer Committee to deny Dr. Haryadi's license to practice as a physician in the State of New York at this time.

Johanna Duncan-Poitier, Chair

Joseph Frey

Steven Earle

The COP notes that Dr. Haryadi was practicing as a psychiatrist at the time of his misconduct but failed to seek therapy from another professional to help stop doing what he knew was wrong. Rather, he told the COP that he tried to hide his home life from his colleagues and even had his wife receive treatment in other towns so that his colleagues would not know of her addiction. His actions, contrary to the heart of his profession, resulted in psychological damage to each member of his family, which lingers today. Dr. Haryadi continues to be estranged from two of his stepchildren, both of whoⁿ still have psychological problems. He mentioned the negative effects his actions had on his stepchildren, but the COP was not convinced that he truly understood his level of responsibility for what has happened to them. Dr. Haryadi mentioned being overwhelmed as one reason for abusing his stepchildren but did not clearly articulate the root causes of his behavior or why his behavior differed in the home and professional settings. Dr. Haryadi mentioned his family as one of the primary safeguards in place for him, but the COP questions this safeguard when looking at the current vulnerability and instability of the family structure. In opposing Dr. Haryadi's application for restoration, the Department of Health questioned whether Dr. Haryadi, himself a psychiatrist, fully appreciates the long-standing and possibly permanent issues related to the repeated abuse he inflicted upon his stepchildren.

The COP notes that the Peer Committee majority recommended that Dr. Haryadi be placed on probation for 10 years and that during that 10-year period he be required to engage in regular relapse prevention therapy and practice only in a supervised practice. With such restrictions over a 10-year period, the COP finds that the recommendation raises questions as to whether Dr. Haryadi presented sufficient evidence for the privilege of having his license restored at this time. The COP finds that Dr. Haryadi failed to present a compelling case to demonstrate that similar misconduct would not recur were his license restored and concurs with the Peer Committee minority that restoration of Dr. Haryadi's license would represent a threat to the public at this time.

Therefore, after a careful review of the record and its meeting with him, the Committee on the Professions voted unanimously to concur with the minority recommendation of the Peer Committee to deny Dr. Haryadi's license to practice as a physician in the State of New York at this time.

Johanna Duncan-Poitier, Chair

Joseph Frey

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 Application of

TIRTADHARYANA HARYADI

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

-----X

REPORT OF
THE PEER
COMMITTEE
CAL. NO. 21083

TIRTADHARYANA HARYADI, hereinafter referred to as the applicant, was previously licensed to practice as a physician in the State of New York by the New York State Education Department. The applicant's license was surrendered as a result of a professional misconduct proceeding, and he has applied for restoration of this license.

On November 18, 2003, this Peer Committee convened to review this matter and make the following recommendation to the Committee on the Professions and the Board of Regents.

BACKGROUND INFORMATION

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

Listed below is the background information from that packet and the information contained in the applicant's submissions on the day of the meeting. Further details pertaining to these documents may be found therein.

PRIOR DISCIPLINE PROCEEDING

Case No. 10737

Action by the New York State Board of Regents

August 6, 1990 – An Order of the Board of Regents was issued, revoking the applicant's license to practice as a physician in the State of New York.

Determination of the Specifications of the Charges

The applicant was found guilty of committing professional misconduct within the meaning of New York State Education Law §6509(5)(a)(i) by reason of being convicted of committing an act constituting a crime under New York State Law.

Nature of the Misconduct

By plea entered on September 15, 1989 in Supreme Court, County of Erie, the applicant pled guilty to two counts of Sexual Abuse in the First Degree (Class D felony) and to one count of a lesser included offense of Sexual Abuse in the Second Degree (Class A misdemeanor).

PETITION FOR RESTORATION

The applicant submitted a restoration application dated August 5, 2002, with attachments as described below.

ATTACHMENTS TO THE PETITION

- Personal statement of the applicant to the Board of Regents dated August 5, 2002. In this

statement he provides three reasons for bringing the restoration petition: he would like to work in his profession again, as he has dedicated his life to it; he would like to contribute to society in the area of treatment of the elderly; and he can do a good job and support himself and his family. He describes the family circumstances that led to sexual abuse of his stepchildren. He describes his incarceration and his rehabilitation efforts both before during and after this incarceration. He closes by describing his current circumstances and plans for the future.

- Attorney's Submission dated August 6, 2002. The legal authority to grant the restoration of a professional license and the standard for making this determination is briefly explored. The background and history of the applicant is described. Evidence of the applicant's rehabilitation activities is highlighted through references to the evidentiary packet, and the applicant's educational efforts and personal references are similarly described.
- Nine letters from various health professionals, attesting to the mental health treatment of the applicant subsequent to committing the crimes at issue.
- Documentation of the applicant's continuing medical education.
- Verification of the applicant's licensure as a physician in the District of Columbia.
- Job history of the applicant.
- Twenty affidavits in support of the application from co-workers, friends and colleagues of the applicant.

INVESTIGATION BY OPD

Subsequent to the filing of the Petition, OPD conducted an investigation for the purposes of this proceeding. Information from that investigation, including reports from the investigators and

other documentation, was made part of the packet for the proceeding. Certain information from the packet has been summarized above. Among the information not summarized is a report from the investigator dated May 6, 2003.

This report summarizes an interview with the applicant conducted via telephone. The applicant was asked about his counseling and re-education efforts, and referred the investigator to the documents in the application for restoration. He stated that his licenses to practice in Indonesia in the District of Columbia were no longer active. The applicant expressed his feelings about the revocation and his hope to do something useful for himself and others if his license were restored.

Other information on the record, not already summarized:

- Letter dated April 7, 2003 from Dennis J. Graziano, Director, Department of Health, Office of Professional Medical Conduct, expressing opposition to the restoration of the applicant's license.
- Letter dated June 10, 2003 from Bradley T. Truax, M.D., of Independent Health, Buffalo, New York, indicating that, with if the applicant's license is restored, the organization would consider the applicant as a potential job applicant for a position as associate medical director.
- Letter dated November 10, 2003 from Kenneth A. Garbarino, M.D., Kaleida Health (placed on the record at the Peer Committee meeting).
- Curriculum Vitae, Brian Joseph, M.D. (placed on the record at the Peer Committee meeting).

PEER COMMITTEE

On November 18, 2003, this Peer Committee met to consider this matter. The applicant appeared before us personally, and was represented by Roger W. Wilcox, Jr., Esq. and Rachel M.

Kranitz, Esq., both from the law firm of Lipsitz, Green, Fahringer, Roll, Salisbury & Cambria, LLP.

Also present was Karen Carlson, Esq., an attorney who appeared on behalf of the Division of Prosecutions of OPD.

In his opening statement, Mr. Wilcox highlighted for the Peer Committee certain of the affidavits produced in support of the applicant. Mr. Wilcox indicated to the Committee that he would be presenting testimony from three individuals who would provide information as to what happened to the applicant and how the applicant feels about these matters now.

In her opening statement Ms. Carlson indicated that the underlying nature of the applicant's surrender of his license to practice medicine was very serious and needed to be scrutinized and weighed very heavily.

The applicant began his testimony by stating that he been married since 1975 and has four stepchildren. He stated that he is presently employed in providing consultant services to health care organizations. He then briefly described his professional history, indicating that his employment at the Veteran's Administration Hospital was in the field of geriatrics and describing the specialty of geriatric psychiatry. He thereafter practiced geriatric psychiatry at the Buffalo Psychiatric Center and was also engaged in training and teaching activities in this field.

Turning to the events that led to the revocation of the applicant's license, the applicant first indicated that he had been licensed as a physician in New York, the District of Columbia and Indonesia. He stated that he had never been accused of any type of misconduct with patients in any jurisdiction in which he was licensed. He was convicted of felony sexual abuse of one of his stepdaughters and attempted sexual abuse of a younger stepdaughter. He was initially charged with a greater number of offenses but did not go to trial, rather pleading guilty to two counts. He stated he was sentenced on November 17, 1989 and received an indeterminate sentence of two to six

years.

He admitted to the Peer Committee that he sexually abused his stepdaughters between the summer of 1986 and December 1987 when stepdaughter L. was approximately 15 years of age. He stated there were several repeated instances of sexual abuse during that period of time that involved L. touching him sexually and one occasion of sexual intercourse with L. He also admitted to inappropriate sexual contact with his two other stepdaughters, S. and H. He attempted to have H. touch him sexually and she refused and this conduct constituted the basis of his conviction for the misdemeanor of attempted sexual abuse. He stated that he touched S. inappropriately on four or five occasions at a time when S. was 18 or 19 years of age.

He served four years of his sentence from 1989 to 1993, the first two years occurring at Orleans Correctional Facility. While at Orleans he participated in several counseling and rehabilitation programs relating to mental health and sexual offense issues. He later transferred to the Collins Correctional Facility which had an intensive one-year sexual offender program. He also indicated to the Committee that prior to his incarceration in 1989 he was in therapy with Dr. Milton Robinson. He was released from Collins on November 15, 1993 and was on parole for two years following his release. One of the conditions of parole was continued treatment, and the applicant participated in a weekly or biweekly sexual offender group at the Niagara County mental health clinic for one year and continued individual counseling after that. The applicant completed the conditions of his parole successfully, and following the completion of his parole continued receiving therapy at the Niagara County clinic until 2000. Since that time, the applicant has not engaged in any counseling or therapy with any other medical professional.

The applicant stated that all three of his stepdaughters went through a lot of emotional pain and that he is sure they are still struggling with these issues today. He also acknowledged that his

wife had been harmed by his behavior and that he disappointed his friends, colleagues and patients.

When asked why he committed these acts, the applicant explained that the behavior began following difficulty in his marriage. The applicant stated that he began to treat his stepdaughters as his peers, substituting the children for his wife. At the time, he rationalized his behavior in terms of having no blood relationship with his stepdaughters, but indicated that he was not now attempting to rationalize or explain away his behavior. He stated that prior and subsequent to these incidents he had never engaged in any type of inappropriate behavior or inappropriate sexual conduct.

The applicant was asked to address the possibility of recidivism, and he described for the Committee the mechanisms he would use to cope with stress and the network he had developed in that regard. He explained his statement (referenced in the letter from the Department of Health) in which he stated that he couldn't say that he would never re-offend, by stating that no one can guarantee future behavior but that he believed he was in a very good place right now through his own growth and therapy. He described in detail his relationship with his family, stating that he has become close to H. but that L. and his stepson have remained somewhat distant. He also explained that he lives in the same building complex, although not in the same apartment, as his wife, and that the focus of their relationship is now on their grandchildren.

The applicant stated that he would like to combine his geriatric psychiatric experience and his consulting experience if his license were to be restored. He also spoke about the possibility of becoming a medical director at a HMO, a position that would require a license to practice medicine.

In closing his direct testimony, the applicant emphasized his interest in being able to respond to the need for geriatric psychiatry in the community and conveyed his hope that he could practice even in a limited setting, with supervision and safeguards.

In response to questioning by Ms. Carlson, the applicant stated that the sexual abuse

occurred while he, his wife and his stepchildren were all living together as a family. He explained that the program at the Collins Correctional Facility was a real program rather than perfunctory and that the program was voluntary. When asked at what point it occurred to him that he was harming his stepchildren, he stated that he knew all along he was doing them some harm, but he began to become seriously aware of the harmful situation toward the end of the period of abuse. He admitted that he only began treatment with Dr. Robinson subsequent to his arrest and prior to his guilty plea. When asked about the type of stress he experiences now, he described worrying about work and about situations that arise with his children, but stated that he no longer assumes responsibility for things that are not his responsibility or that he doesn't have control over.

In follow-up questions by Mr. Wilcox the applicant stated that he would assume greater financial responsibility for his wife if his financial capacity would allow it.

The Peer Committee began its questioning by asking about a reference in the Health Department's letter which alluded to sexual abuse of the applicant's stepson. The applicant stated that was incorrect, and that he had only been accused of physical abuse and menacing of his stepson. He denied sexually abusing this child, but admitted that he did abuse him physically. He then described the occupations and family situation of his stepdaughters and explained that his oldest daughter is the mother to his grandchildren. He described in further detail the sexual abuse that occurred with his stepdaughters, stating that he never used physical force and that there was only one episode of sexual intercourse.

He described the therapy that his stepchildren received after the occurrences, and stated that his stepdaughter H. still receives therapy occasionally. When asked to again describe his feelings when the sexual abuse was taking place, the applicant described feeling badly at one level but rationalizing and justifying on another level. When asked to describe his current feelings he stated

that he is very upset and horrified at himself but also described the process of healing that he and his family have undergone. In describing the physical abuse he stated that he would punch the children with a closed fist in the trunk of their body and slap their face and at one time literally choked H.

When asked about his plans if his license is restored, he stated that his immediate plan is to get a good job from whatever opportunity arises, to pay off debts and perhaps enable H. to attend law school. He stated that he currently is not able to provide meaningful financial support to his stepchildren. When asked about his current need for therapy he stated that he didn't believe that a support group would be of assistance to him but that engaging in community activities may be helpful.

The applicant discussed his internal mechanisms for avoiding bad behavior, explaining that he realized that stress caused him to feel entitled to expect things from people. He also recognized a tendency to feel responsible for things that he had no control over. In response to a suggestion about boundary issues with patients, the applicant expressed an interest in establishing a relationship with a peer to discuss those issues. He stated that he would also avoid taking on unrealistic support responsibilities for his family.

The applicant discussed the value of obtaining his license back, discussing an interest in doing consulting and teaching, and also in practicing geriatric psychiatry.

The Peer Committee then heard testimony from Dr. Brian Joseph, a psychiatrist who evaluated the applicant in 2001. In discussing why the applicant engaged in the sexual misconduct, Dr. Joseph related the applicant's professional and personal history, then characterized the applicant as psychologically vulnerable, who sought nurturance and comfort from his adolescent children. In addressing the question of the applicant's current ability to practice, the doctor characterized the

sexual abuse as intra-familial and unlikely to be replicated in practice. He also referenced the applicant's treatment and steps toward responsibility. He stated that he does not view the applicant as a threat to patients.

In response to questions from Ms. Kranitz, Dr. Joseph stated that the applicant understood the wrong of his actions, appeared appropriately remorseful, has received adequate therapy and would be highly unlikely to present a problem in the future. He stated that he would feel comfortable referring patients to the applicant, and would urge the applicant to practice in an institutional setting.

In response to questions from the Peer Committee, Dr. Joseph discussed the appropriateness of the applicant practicing in a institutional setting, and stated that he believed that the issue of ongoing therapy was up to the applicant.

The Peer Committee heard testimony from the applicant's stepdaughter H. She stated that she had visited the applicant twice when he was incarcerated, and that after his incarceration, the applicant apologized, and they began to have a relationship again. She stated, in response to a question from Ms. Carlson, that she believed that the applicant would help her out with law school.

In response to questions from the Peer Committee, H. stated that the applicant had a great relationship with his grandchildren. She also described her own therapy, stating that her natural father had arranged for her to receive counseling. In response to a question from Mr. Wilcox, H. stated that her decision to testify had nothing to do with any monetary gain she may receive from the applicant having his license restored.

In her closing statements, Ms. Carlson acknowledged the candor of the applicant in discussing his crimes, but took the position that restoration of a license is a privilege, and in this case, the license should not be restored.

In his closing statement Mr. Wilcox noted that fifteen years had passed since the events that led to the revocation. He took issue with certain of the points in the Health Department's letter in opposition to the restoration application. He noted that there has been no hint of impropriety with patients. He acknowledged the public safety concern of the Peer Committee and stated that the nature of the applicant's crimes should not predetermine the result of the hearing.

RECOMMENDATIONS

This Peer Committee has considered the entire record in this matter. It is the recommendation of two of our members, Drs. Margaret Colgan and Robert J. Corona, 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 ten years under the terms of probation annexed hereto, and made a part hereof, and marked as exhibit "A."

It is the recommendation of the other member of this Peer Committee, Dr. David Anthone, that the applicant has not met the compelling burden of demonstrating that his license should be restored, and that therefore the application should be denied.

REASON FOR MAJORITY RECOMMENDATION

The majority recommends approving this application, despite a grave concern over the seriousness of the crimes committed by the applicant. We note that the acts admitted to by the applicant took place in a family setting and there was no evidence on the record of any improper behavior towards patients, or even of a manifestation in the workplace of the character traits that led to the abhorrent behavior. The majority also notes that the acts took place more than fifteen years ago, and that the applicant served four years in prison and engaged in significant therapy beginning immediately after he was accused.

The majority is convinced that the applicant is truly remorseful for his actions. He was

completely honest with us in his testimony, and explained in detail the behavior he engaged in, beyond that which was the basis of his criminal convictions. He also appeared to us to be acutely sensitive to the impact his activities had on his family.

The majority also views the applicant as an example of someone who can turn his life around. His rehabilitation is apparent and manifests itself in several ways. First, he has maintained a productive life, and has been able to obtain an MBA and continue to support himself. Second, he has worked hard to re-establish a relationship with his family. Third, he has engaged in significant therapeutic activity and was able to articulate for the Peer Committee an understanding of the personality traits that caused his abusive behavior. The majority also notes that he was evaluated and received the support of Dr. Joseph, who provided his analysis of the applicant's condition, and his opinion regarding his ability to practice in the future.

Our evaluation of the applicant's re-education indicates that it is more than adequate to support the resumption of his practice.

However, in the view of the majority, the primary concern in this case must be an assurance that the applicant, if his license is restored, would not represent a threat to the public. Based upon the applicant's presentation to us, and the steps he has taken since the abusive behavior ended, we do not believe that he will be a threat. We believe that the applicant could be a benefit to the public in his specialty of geriatric psychiatry. However, in order to protect the public from even a remote chance of repeat behavior, the majority recommends that the applicant be placed on probation for as long a period as reasonable, and we are recommending ten years. During this period of probation the applicant could only engage in a supervised practice, and would be required to engage in regular relapse prevention therapy. We are also recommending that fifty percent of his required continuing medical education be in the area of professional responsibility.

REASON FOR MINORITY RECOMMENDATION

The minority believes that, given the enormity of the offenses that the applicant admitted to, which include sexual abuse and extremely violent acts against his step children, the possibility that such behavior could occur again is sufficient to deny the application. The minority notes that the relationship between physician and patient, particularly in the area of the applicant's specialty, is intimate and trusting. While the testimony of the applicant was open and honest, the acts committed by the applicant were so fundamentally wrong that the minority is not convinced that the possibility of similar behavior does not exist within the applicant. Given this possibility, and the inability to establish a foolproof monitoring system, the minority believes that the restoration of the applicant's license would represent a threat to the public, and that his application should be denied.

Respectfully submitted,

DO. (RC)
ROBERT CORONA, M.D.,
Chairperson,
DAVID ANTHONI, M.D.,
MARGARET COLGAN, M.D.

Robert J. Corona DO.

Chairperson

Dated

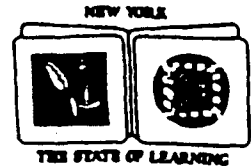
3/1/04

EXHIBIT "A"
TERMS OF PROBATION
OF THE PEER COMMITTEE

Tirtadharyana Haryadi, M.D.

CALENDAR NO. 21083

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), Department of Health (DOH), 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 applicant's employment, practice, residence, telephone number, and mailing address within or without the State of New York;
3. That applicant shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), 2nd Floor, North Wing, 89 Washington Avenue, Albany, New York 12234 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 DOH, addressed to the Director, OPMC, as aforesaid, no later than the first three months of the period of probation;
4. 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;
5. That during the period of probation, the applicant shall only engage in an institutional based practice, and shall limit his patient population to adults, and that the applicant shall only practice as a physician in a supervised setting under the supervision of a physician board certified in psychiatry, said supervising physician to be selected by the applicant and previously approved, in writing, by the Director, OPMC;
6. That during the period of probation, fifty percent of the applicant's annual required continuing medical education credits shall be in the area of professional responsibility.
7. That applicant shall, at applicant's expense, undergo therapy during the period of probation and submit quarterly reports from applicant's therapist to the DOH, addressed to the Director, OPMC, as aforesaid, in which said therapist shall state whether applicant is continuing therapy and shall also state whether applicant is progressing in said therapy. If any information is received by the DOH indicating that applicant not continuing therapy, such information shall be processed to the OPMC for its determination in a violation of probation proceeding;
8. 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;
9. That upon receipt of evidence of noncompliance with or any other violation of any of the aforementioned terms of probation, the OPMC, DOH may initiate a violation of probation proceeding.



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 10010-5802

August 10, 1990

Tirtandharyana Haryadi, Physician
29 Willow Lane
Tonawanda, N.Y. 14150

#89C1535, E1-10T
Orleans Correctional Facility
35-31 Gaines Basin Road
Albion, N.Y. 14411

Re: License No. 129564

Dear Dr. Haryadi:

Enclosed please find Commissioner's Order No. 10737. This Order and any penalty contained therein goes into effect five (5) days after the date of this letter.

If the penalty imposed by the Order is a surrender, revocation or suspension of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. In such a case your penalty goes into effect five (5) days after the date of this letter even if you fail to meet the time requirement of delivering your license and registration to this Department.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations
By:

MOIRA A. DORAN
Supervisor

DJK/MAH/er
Enclosures

CERTIFIED MAIL- RRR

CC:

RECEIVED

AUG 20 1990

Office of Professional Discipline
Medical Unit



The University of the State of New York

IN THE MATTER

OF

TIRTANDHARYANA HARYADI
(Physician)

DUPLICATE
ORIGINAL
VOTE AND ORDER
NO. 10737

Upon the report of the Regents Review Committee, a copy of which is made a part hereof, the record herein, under Calendar No. 10737, and in accordance with the provisions of Title VIII of the Education Law, it was

VOTED (July 27, 1990): That the record herein be accepted; that the findings of fact, determination as to guilt, and recommendation as to the penalty to be imposed rendered by the Regents Review Committee in the matter of TIRTANDHARYANA HARYADI, respondent, be accepted; that respondent is guilty of the charge by a preponderance of the evidence; that respondent's license and registration to practice as a physician in the State of New York be revoked upon the charge of which respondent has been found guilty; that respondent may, pursuant to Rule 24.7(b) of the Rules of the Board of Regents, apply for restoration of said license after one year has elapsed from the effective date of the service of the order of the Commissioner of Education to be issued herein, but said application shall not be granted automatically; and that the Commissioner of Education be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote;

and it is

ORDERED: That, pursuant to the above vote of the Board of

TIRTANDHARYANA HARYADI (10737)

Regents, said vote and the provisions thereof are hereby adopted and SO ORDERED, and it is further

ORDERED that this order shall take effect as of the date of the personal service of this order upon the respondent or five days after mailing by certified mail.

IN WITNESS WHEREOF, I, Thomas Sobol, Commissioner of Education of the State of New York, for and on behalf of the State Education Department and the Board of Regents, do hereunto set my hand and affix the seal of the State Education Department, at the City of Albany, this 6th day of August, 1990.

Thomas Sobol

Commissioner of Education



The University of the State of New York

IN THE MATTER
of the
Disciplinary Proceeding
against
TIRTANDHARYANA HARYADI

No. 10737

who is currently licensed to practice
as a physician in the State of New York.

REPORT OF THE REGENTS REVIEW COMMITTEE

TIRTANDHARYANA HARYADI, hereinafter referred to as respondent, was given due notice of this proceeding and informed that he could appear and be represented by an attorney.

On May 31, 1990, the scheduled date of our hearing, respondent did not appear before us in person and no attorney appeared before us on behalf of respondent. However respondent did submit numerous pieces of correspondence and other documents which have been made part of the record herein. Kevin C. Roe, Esq., represented the New York State Department of Health.

Petitioner's recommendation as to the penalty to be imposed, should respondent be found guilty, was that respondent's license to practice as a physician in the State of New York be revoked.

We have reviewed the record in this matter; and our unanimous findings of fact, determination as to guilt, and recommendation as

TIRTANDHARYANA HARYADI (10737)

to the penalty to be imposed follow:

FINDINGS OF FACT

1. Respondent was licensed to practice as a physician in this State by the New York State Education Department.
2. Respondent was convicted of committing an act constituting a crime, as set forth in the statement of charges and the record herein.

DETERMINATION AS TO GUILT

The charge, annexed hereto, made a part hereof, and marked as Exhibit "A", has been proven by a preponderance of the evidence and respondent is guilty thereof.

RECOMMENDATION AS TO THE
PENALTY TO BE IMPOSED

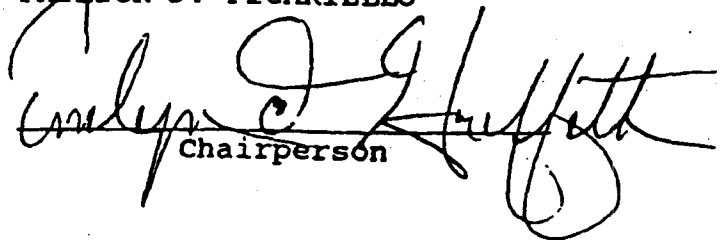
Respondent's license to practice as a physician in the State of New York be revoked upon the charge of which respondent has been found guilty. Respondent may, pursuant to Rule 24.7(b) of the Rules of the Board of Regents, apply for restoration of said license after one year has elapsed from the effective date of the service of the order of the Commissioner of Education to be issued herein; but said application shall not be granted automatically.

Respectfully submitted,

EMLYN I. GRIFFITH

JANE M. BOLIN

PATRICK J. PICARIELLO


Chairperson

Dated: 6/26/90

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

-----X

IN THE MATTER : STATEMENT
OF : OF
TIRTANDHARYANA HARYADI, M.D. : CHARGES

-----X

1. TIRTANDHARYANA HARYADI, M.D., the Respondent, was authorized to practice medicine in New York State on December 17, 1976 by the issuance of license number 129654 by the New York State Education Department.

2. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1989 through December 31, 1991 from 29 Willow Lane, Tonawanda, New York 14150.


SPECIFICATION

3. The Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(5)(a)(i) (McKinney 1985) by reason of being convicted of committing an act constituting a crime under New York State law, in that:

Exhibit "A"

By a forty-two count indictment in Erie County, State of New York, the Respondent was charged with nine counts of Sexual Abuse, First Degree; nine counts of Rape, First Degree; nine counts of Rape, Third Degree; five counts of Endangering the Welfare of a Child; seven counts of Sexual Abuse, Third Degree; two counts of Menacing; and one count of attempted Rape, First Degree. The Forty-Second Count was later dismissed. By plea entered on September 15, 1989 before Hon. Mario J. Rosetti in Supreme Court, County of Erie, the Respondent pled guilty to two counts of Sexual Abuse in the First Degree (Class D felony) and to one count of a lesser included offense of Sexual Abuse in the Second Degree (Class A misdemeanor). The plea was accepted and the Respondent was sentenced to a term of imprisonment not less than two years and not more than six years upon the counts of Sexual Abuse in the First Degree and to a definite sentence of one year upon the offense of Sexual Abuse in the Second Degree, all of which are to run concurrently.

DATED: Albany, New York
February 16, 1990


PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical
Conduct