

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

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OFFICE OF PROFESSIONAL October 8, 2003 MEDICAL CONDUCT

03-570

Mark H. Jackson, Physician 2103 Glenwood Road Brooklyn, New York 11210

Re: Application Restoration

Dear Dr. Jackson:

Enclosed please find the Commissioner's Order regarding Case No. CP-03-09 which is in reference to Calendar No. 17626. 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

Supervisor

DJK/GM/er



IN THE MATTER

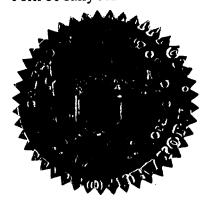
of the

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

Case No. CP-03-09

It appearing that the license of MARK H. JACKSON, 2103 Glenwood Road, Brooklyn, New York 11210, to practice as a physician in the State of New York, was surrendered pursuant to a consent order of the Department of Health, Office of Professional Medical Conduct, effective August 27, 1997, 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 September 12, 2003, it is hereby

ORDERED that the petition for restoration of License No. 181595, authorizing MARK H. JACKSON to practice as a physician in the State of New York, is denied, but that the Order of Surrender of said license is stayed for five years, and said MARK H. JACKSON is placed on probation for a period of five years under specified terms and conditions, and upon successful completion of the probationary period, his license to practice as a physician in the State of New York be fully restored.



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 73 day of September 2003.

MiOQ

Commissioner of Education

It appearing that the license of MARK H. JACKSON, 2103 Glenwood Road, Brooklyn, New York 11210, to practice as a physician in the State of New York, was surrendered pursuant to a consent order of the Department of Health's Office of Professional Medical Conduct, effective August 27, 1997, 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 September 12, 2003, it was

VOTED that the petition for restoration of License No. 181595, authorizing MARK H. JACKSON to practice as a physician in the State of New York, be denied, but that the Order of Surrender of said license is stayed for five years, and said MARK H. JACKSON is placed on probation for a period of five years under specified terms and conditions, and 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: Mark H. Jackson

Not Represented by an Attorney

Mark H. Jackson, 2103 Glenwood Road, Brooklyn, New York 11210, petitioned for restoration of his physician license. The chronology of events is as follows:

02/27/90	Issued license number 181595 to practice as a physician in New York State.
06/97	Charged with professional misconduct by Department of Health. (See "Disciplinary History.")
08/11/97	Surrender Order signed by Department of Health.
08/27/97	Effective date of surrender.
12/08/00	Submitted application for restoration.
05/08/02 &	
06/21/02	Peer Committee restoration review.
03/05/03	Report and recommendation of Peer Committee. (See "Report of the Peer Committee.")
05/16/03	Committee on the Professions restoration review.
08/26/03	Report and recommendation of Committee on the Professions. (See "Report of the Committee on the Professions.")

<u>Disciplinary History.</u> (See attached disciplinary documents.) In June 1997, the Department of Health charged Dr. Jackson with two specifications of professional misconduct: practicing the profession fraudulently and moral unfitness. The Department alleged that Dr. Jackson, beginning in or about 1994 through in or about July 1996, wrote prescriptions for controlled substances, including Dilaudid and Percocet, other

than in the good faith practice of medicine. Dr. Jackson entered into a consent order with the Office of Professional Medical Conduct to surrender his license, agreeing not to contest the charges of professional misconduct. The surrender became effective August 27, 1997.

Dr. Jackson submitted an application for restoration of his license on December 8, 2000.

<u>Recommendation of the Peer Committee.</u> (See attached "Report of the Peer Committee.") The Peer Committee (Salom, Roman, Cohen) met with Dr. Jackson on May 8 and June 21, 2002 to review his application for restoration. In its report, dated March 5, 2003, the Committee recommended that Dr. Jackson's physician license be restored.

Recommendation of the Committee on the Professions. On May 16, 2003, the Committee on the Professions (Duncan-Poitier, Alexander, Munoz) met with Dr. Jackson to review his application for restoration. An attorney did not accompany him. Dr. Jackson presented the Committee with the following:

- Letter, dated May 13, 2002, from the American Cancer Society commending Dr. Jackson for his efforts to eradicate smoking.
- Certificate of Recognition, dated April 30, 2003, from the American Cancer Society for outstanding services as a volunteer.
- Certificate of Achievement, dated July 10, 2002, from the American Cancer Society for completing "Make Yours a Fresh Start Family Training."
- Nine certificates of continuing medical education completed since June 2002.

The Committee asked Dr. Jackson to discuss what led to the loss of his license. Dr. Jackson said that he was involved with the illegal distribution of prescriptions. He explained that he wrote prescriptions for controlled substances for a second party who sold them. He indicated that after finishing a fellowship in gastroenterology, he shared an office with another doctor and took a part-time position at a community health center to help pay for the rent. After about a year and one-half at the center, Dr. Jackson said he was approached by a medical assistant and a patient who requested a prescription, but he refused to give the patient a prescription. He reported that a week later the patient returned and "reminded me that if I did a favor for him it would be easier to get from the train station to the clinic." Dr. Jackson said that there were gangs around the trains and he was frightened. He indicated that he gave the patient a one-month prescription, but he returned after about six weeks and requested another prescription. Dr. Jackson said that the patient told him, "I know where you live and where you work." He reported that he wrote a total of eight illegal prescriptions from both practice locations.

Dr. Jackson said that in December 1995 he lost his private practice office because he couldn't pay the rent. He reported that as a new practitioner setting up a private practice he thought that he would get his share of referrals from the hospitals but

soon discovered that that was not happening. As a result, he told the Committee that he needed the second job in the clinic to help with his expenses. Dr. Jackson said that he resigned from his job at Lennox Hill in May 1996, however, because the workload became too great. He indicated that he went back to Lennox Hill in July 1996 because he and his wife decided he needed a job. Dr. Jackson said that about 10 days later he got a call from his former medical assistant asking for prescriptions and reminding Dr. Jackson how easy it was to find him. He reported that he was arrested two days later after giving him the prescriptions and later found out that the medical assistant was working with the DEA.

The Committee asked Dr. Jackson when he started asking for money for the illegal prescriptions he wrote. He replied, "Just before losing my private office." The Committee asked why he wrote the prescriptions. He replied that it was primarily for financial reasons but other factors also contributed. Dr. Jackson explained that his mother, also a physician, was never able to have a private practice in Tennessee. He added that after completing his residency training, he was idealistic and believed he could succeed in a private practice. He reiterated that the referrals from hospitals that he assumed he would receive never materialized. Dr. Jackson said that even though he was being pressured, he knew that writing and giving the prescriptions to an individual who did not need them for legitimate medical reasons was wrong. He stated, "I lost a lot of self-respect." He said he realized a profit of about \$900. The Committee noted that the record indicated he was getting \$500 a prescription. Dr. Jackson said that he received only \$90 to \$120 a prescription.

The Committee asked Dr. Jackson what was different today that would warrant the restoration of his license. He replied, "Personally, I've learned there is nothing more important than integrity. Next, I've learned there is nothing more important than selfrespect." He said that he harmed himself and the people who believed in him - his wife, his daughter, and colleagues who trusted him. Dr. Jackson said that the experience has made him a better person and that he has learned no matter how difficult life may be, you have to maintain your integrity and self-respect. The Committee asked what he would do today if placed in the same situation. He answered that he would not do anything that was illegal. He said that he would go directly to the police or some other authority. Dr. Jackson told the Committee, "What I went through, I wouldn't want to go through again. He said that what he had done was very hard on his wife and daughter and he wanted to show them that their faith in him was worth it. He described his current position as the Assistant to the Vice President of Medical Affairs at Bedford Stuyvesant Family Health Center and felt very fortunate to find work in the health field. Dr. Jackson told the Committee that he teaches medical students, works closely with doctors and patients, schedules continuing medical education guest lecturers, keeps up with medical readings and continuing medical education courses, and often is responsible for running the facility when his supervisor is away. He said that he is also involved with risk management activities and is a member of the Quality Assurance Committee. Dr. Jackson said that he wants his license so that he can be involved with patient care at his current facility and be able to substantially increase his salary.

The Committee again asked why he became involved with the illegal activity. Dr. Jackson said that he initially became involved because "I was scared. I didn't grow up in that type of environment. Both my parents were professionals in the upper middle class.

I'd never been threatened before." He indicated that he didn't go to the police because he had heard that many policemen in that neighborhood were "dealing drugs on the side." He indicated that he later asked for money for the prescriptions because of his financial difficulties. In response to an inquiry, Dr. Jackson said that his wife was not aware of what he was doing until he was arrested.

The Committee asked Dr. Jackson what he could say to convince the Committee that he should have his license restored. He said that he would never do it again. He stated that his actions brought pain and hardship to his family, himself, and those around him. He said, "I did a disservice to the profession. I want to make up for it. I want to get back to helping people. I didn't realize how important it was to be a physician until I lost the license." The Committee asked, "What is the biggest problem with what you did?" He replied, "Allowing a controlled substance out into the community." He added, "However, half of the prescriptions never found their way out into the street." He explained that the last five went to the DEA. Dr. Jackson said, "At that time, I didn't care. I don't understand why I didn't care." He said that his wife and daughter were his main influences today. He indicated that today he realizes that his medical license is more than just paper and symbolizes a special type of person in whom people put trust. He indicated that patients will tell physicians things they would not tell anyone else — even family members. He said that he would like to help the underserved population in Brooklyn.

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 as valid whatever is presented to it by the petitioner but to weigh and evaluate all of the evidence submitted and to render a recommendation based upon the entire record.

Two members of the COP concur with the conclusion of the Peer Committee that Dr. Jackson has presented a compelling case for the restoration of his license. They agree with the Peer Committee that he has made strong efforts to remain current in medicine through continuing medical education courses, Grand Rounds, his teaching of medical students, his reading of journals, and his involvement with health care professionals where he currently works. These two COP members find that Dr. Jackson is remorseful for his misconduct and was able to relate how his misconduct may have adversely affected those who illegally received the prescription drugs. They believe Dr. Jackson was credible in explaining why he became involved in the illegal prescription writing and agree with the Peer Committee that the risk of recidivism is very low. Since

he has been out of practice for approximately six years, these two COP members recommend that his reentry into the medical profession be monitored during a five-year probationary period. During the probationary period, they recommend that he practice only in a supervised environment and that he be restricted from maintaining a solo practice.

The third member of COP does not believe that Dr. Jackson presented a compelling case for the restoration of his license at this time. That member opines that while Dr. Jackson has certainly shown remorse for the consequences that his conduct had on his family, himself, and the profession, there was an absence of concern for those who were affected by his actions. There is little reference in any of the documents provided or evidence in the testimony that he felt remorse or concern for the individuals who were sold the drugs in the end. In addition, the illegal conduct and the serious consequences of that conduct do not appear to be the reason that he would refrain from doing something like this in the future. He stated that he would not do anything again because of the pain and hardship on his family. While this may keep him from participating in illegal activity in the future, a more compelling and persuasive argument for restoration would have been that he understood the serious nature of the crime he committed and the effect it may have had on the lives of others. To his credit, however, at the end of the interview when asked, "What was the worst thing about what you did?" he did answer that it was the harm that he did to others. Although there is some awareness of the damage he could have done, there is no way that this is foremost in his mind. Without convincing evidence that he has a full understanding and an appreciation of the harm his actions caused and without some evidence that he has as much concern for those affected by his actions as he does for himself and his family, the member voting in the minority believes that a recommendation for restoration cannot be made at this time.

Therefore, after a careful review of the record and its meeting with him, the Committee on the Professions voted two to one to recommend that the order of surrender of Dr. Jackson's physician license be stayed for five years, that he be placed on probation for five years under specified terms and conditions attached to this report and labeled as Exhibit "A," and that upon successful completion of the probationary period, his license be fully restored.

Johanna Duncan-Poitier, Chair

Claudia Alexander

Frank Munoz

EXHIBIT "A"

TERMS OF PROBATION OF THE COMMITTEE ON THE PROFESSIONS

MARK H. JACKSON

- 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 during the period of probation the applicant shall be restricted from maintaining a solo practice of medicine;
- 6. That during the period of probation the applicant shall practice medicine only in a supervised setting, such as a facility licensed by New York State, where close practice oversight is available on a daily basis and where quality assurance and

risk management protocols are in effect. Applicant shall not practice medicine until the supervised setting proposed by Applicant is approved, in writing, by the Director of OPMC. Applicant shall propose an appropriate supervisor or administrator in all practice settings, who shall be subject to the written approval of the Director of OPMC and who shall submit written reports to OPMC every six months regarding Applicant's overall quality of medical practice;

- 7. 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
- 8. That upon receipt of evidence of noncompliance with or any other violation of any of the aforementioned terms of probation, the OPMC may initiate a violation of probation proceeding.



The University of the State of New York

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

In the Matter of the Application of

MARK H. JACKSON

REPORT OF THE PEER COMMITTEE CAL. NO. 19726

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

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

PRIOR DISCIPLINARY PROCEEDING

Applicant was arrested for the illegal distribution of narcotics, specifically the sale of New York State Triplicate prescriptions for Diluadid and Percocet. He pled guilty to these charges in May of 1997. He surrendered his license to practice medicine on August 26, 1997. On January 12, 1998, he was sentenced to 12 months imprisonment in a Federal Prison Camp, which began on February 17, 1998. He was released on February 12, 1999.

On December 8, 2000 applicant petitioned for the restoration of his license to practice as a physician in the State of New York.

INVESTIGATIVE INTERVIEW

On April 16, 2001 an interview with applicant was conducted.

Applicant stated that, it would be easy for him to say that he wants his license reinstated so that he can go back to practicing medicine, to resume doing the things that he was trained and educated to do, but that would be too simple and would only tell a small part of it. He said medicine is something that is a part of him. His mother was a physician, so he grew up in a "medical" household. He said it's all he knows and loves and that is why his actions have been so painful for him and that is why he feels so much shame at what he has done.

Applicant said he has always been proud to say that he is a physician and the day he received his license to practice medicine was one of the three proudest days of his life, the other two being his marriage and the birth of his daughter.

Applicant said the actions that led to the loss of his license in 1997 were unforgivable. They not only tarnished his name and reputation, but he said that they also cast a dark shadow on the profession of medicine as well. He said that although his actions never affected his patients directly they were illegal and harmful to others and for this he is truly sorry and feels both shame and remorse.

Applicant stated that the feelings that he has are very hard to explain. He said it is as if he shamed not only himself and his family, but also the profession that he loves and he feels as if he brought dishonor to the profession, which once honored him

by including him in its ranks. He said he feels a great need to right these wrongs, to prove to everyone around him that he can once again be an honorable physician and clinician, to prove that he is still a good clinician who cares for those who entrust their care to him and to once again be able to care for the sick, the injured and the infirm.

Applicant stated that for approximately six months after his release from the Federal Prison Camp in Schuykill, Pennsylvania, he was unemployed. As a convicted felon, no one would even consider hiring him. Then he was introduced to Ulysses Kilgore, President\CEO of the Bedford Stuyvesant Family Health Center, (BSFHC) and Dr. Monica Sweeney, MD, MPH, then Medical Director of BSFHC. They too at first were hesitant, but finally took a chance and gave him a job. BSFHC is located in Central Brooklyn, an area recognized by both the State and Federal government as a medically under-served area. Forty percent of its patient population is at or below the poverty level. Brooklyn faces a major health crisis and physician shortage, and Central Brooklyn has the highest rate of HIV\AIDS in the State. Applicant said that he owes a great debt of gratitude to the Center and to those individuals who gave him a second chance. His position at BSFHC has not only allowed him a chance to prove himself as a person and as an employee, but also to provide for his family financially. He said the Center and the community it serves desperately need more minority physicians and that, with the reinstatement of his license he could be such a physician. He said that with a license to

medicine, he could help many people who need better access to healthcare, while at the same time do all that he could to repay those people who took a chance in hiring him in the first place. He said he could also prove to the medical community and the State Education Department that they were not mistaken in granting a license to him in the first place.

Applicant stated that he completed a 40 hour "Drug Awareness" program and a 15 hour "Rational Behavior Training" program for rehabilitation.

After surrendering his medical license in August of 1997, he continued his employment with People Care Inc., in a non-clinical position, until September 1, 1997. From June of 1997 through October of 1997, Dr. Alford Smith, MD, also employed him, in a non-clinical position. Dr. Smith's private practice is located in Brooklyn, New York. Since August 5, 1999 he has been employed as a Medical Administrator/Assistant to the Vice-President for Medical Affairs at the BSFHC.

Applicant stated he has done volunteer work for the Park Slope Christian Help Center, a soup kitchen and shelter/residency for homeless pregnant and post partum women.

Applicant stated that he had obtained 57 hours of continuing education credits since revocation. He obtained 18 hours from the American Medical Association Journal based CME and 39 hours from non-journal based CME.

Applicant stated that he subscribes to and reads the following periodicals:

MARK H. JACKSON (19726)

- Archives of Internal Medicine (personal subscription)
- Cleveland Clinic Journal of Medicine (personal subscription)
- Hospital Practice: Advances in Medicine for Primary Care Physicians
- Mayo Clinic Proceedings (personal subscription)
- Practical Gastroenterology (personal subscription)
- The American Journal of Medicine
- JAMA: Journal of the American Medical Association
- . Minority Health Today.

PEER PANEL REVIEW

On May 8, 2002 and June 21, 2002 this Peer Panel met to review the application in this matter. Applicant appeared and elected to proceed without an attorney. The Department was represented by Peter Janangelo, Jr., Esq.

The Chairperson opened the meeting by stating that the Peer Panel had read the full application and supporting documentation before the meeting. The Chairperson then had everyone in the meeting introduce themselves.

Applicant offered additional material at both the May 8 and June 21 meetings and said material was accepted. Said material consisted of five (5) additional items which were marked applicant's exhibits A through E and made a part of the record herein.

Applicant told the Panel that while working at Urban Health Plan, Inc., he was approached by his medical assistant and a

patient who said that they belonged to the Latin Kings drug gang. Applicant stated that the two threatened him and his family with physical harm if he did not provide them with prescriptions for Percocet and Dilaudid. Applicant's medical assistant had access to the applicant's personnel records. He said this medical assistant eventually became a confidential DEA informant.

Applicant said that although he knew that it was wrong to give the patient the prescriptions, he was not in a financial position to quit his job at Urban Health Plan, Inc. Applicant also said that he did not contact law enforcement authorities as he did not believe that they could escort him to and from work everyday or protect his family. In addition, applicant mentioned that as an African-American, he sometimes has somewhat of a distrust of police officers.

Applicant indicated that while he initially gave the prescriptions for free, he eventually asked for money since he was risking the revocation of his medical license while they were selling each pill for at least three dollars. Applicant said that he was subsequently paid \$90 to \$130 per prescription. He added that he was under much stress because he could not pay the rent on his private practice office, and because of expenses of his child's education.

Applicant said that in May 1996, he quit his job at Urban Health Plan, Inc. without notice and did not obtain new employment for over a month, in order to escape from his co-conspirators. However, two months later, in July 1996, while employed at Lenox

Hill Hospital, he was contacted by his former medical assistant, now a DEA informant, who demanded more prescriptions. Applicant stated he was demoralized and very fearful that the drug gang, the Latin Kings, had discovered his new place of employment and they would renew their threats against him and his family. Applicant used a prescription pad from Lenox Hill Hospital to comply with this demand.

When asked what emotional support he now has in his life applicant said that he has his wife and daughter, friends who have stuck by him, strong social support from his church and a lot of support from the people he works with at BSFHC.

Applicant's duties at BSFHC, as assistant to the vicepresident, are like those of a medical director. He prepares
schedules for the providers and staff conferences. He helps
prepare grant applications. He stated that if he receives his
license he would become a salaried physician at BSFHC.

Applicant went on to say that he does as much CME as he can. Applicant said he also does as much reading as he can in connection with keeping up his medical knowledge. He also teaches medical students once a week at the Sophie Davis School of Medical Education.

He said that he not only schedules the weekly staff conferences at BSFHC but he attends them as well.

With regard to his teaching activities applicant said there are two groups of students. First year students are learning the role of the physician, so he primarily lectures to them. And he

observes them doing patient interviews and gives them feedback.

That is an eight-week course. They do interviews with elderly patients, middle age patients, adolescents and children.

He also works with third year students who are doing the clinical rotation in ambulatory care, where they present cases to him after they have seen the patients with one of the providers.

Because BSFHC is understaffed, the regular providers do not have time to see patients and also_help the students. Therefore, the students will see the patients with the providers and then they will present the case to applicant and discuss it with him.

At the end of the first meeting date, on May 8, 2002, applicant was given the opportunity to come back at another date and bring witnesses and further documentation. Applicant accepted this offer and we reconvened on June 21, 2002.

Sister Marie Lenihan was applicant's first witness. She stated that applicant came to Park Slope Christian Health, which is a agency in Brooklyn. It has two component parts, a soup kitchen and a residency for young, pregnant, unwed women. Applicant came in March of 1999 for an interview and began working in the soup kitchen in May of 1999 and in the residence in June of 1999. Sister Lenihan was aware of why applicant lost his license.

As part of his community service, applicant spends seven hours once a month in charge of the residence, which has nine families. Applicant is there from 3:00 p.m. to 10:00 p.m. on Saturday, usually the fourth Saturday of the month.

While he is there he is responsible for the comings and

goings of the residents, answering phones, making sure the people who are not supposed to be there are not there and attending to any crisis such as child birth.

She stated that applicant always handled his responsibilities very well. Applicant also does soup kitchen duty on Fridays from 9:00 a.m. to 3:00 p.m. once a month.

Applicant's next witnesses was Dr. Ngozi Oji who has known applicant for two and a half years at BSFHC where she is a physician. She has contact with applicant five or six days a week. Dr. Oji is aware of why applicant lost his license and recommends that applicant's license be restored based on her experience working with applicant. She said that, among other things, applicant has instituted organizational changes at the center that have made things work more efficiently. Dr. Oji does not believe that applicant would ever get involved with improper conduct again because she believes applicant is very remorseful for the misconduct he committed.

Applicant then offered three exhibits (C, D and E) which were accepted. Applicant was also invited to submit additional materials after the close of the meeting. (Applicant has submitted said material: a letter dated July 1, 2002 from Ulysses Kilcore III, President and CEO of BSFHC and a letter dated July 15, 2002 from Alice Jackson, applicant's wife. These letters are made a part of the material herein).

The parties then made closing statements. Applicant stated that he should have gone to the authorities when the situation

first developed but he feared for his family's and his own safety. He said that he is truly remorseful for his actions.

Mr. Janangelo said that the Department opposes the restoration of applicant's license and cited item 4 in the packet, the letter from OPMC.

RECOMMENDATION

We unanimously recommend that the application herein be granted and that the revocation of applicant's license to practice medicine in the State of New York be stayed. Applicant has made an strong effort at reeducation and rehabilitation through his CME courses, his reading of medical journals, his teaching and his involvement in staff meetings and conferences at BSFHC and also through his community service.

The testimony of Sister Lenihan shows substansive time spent in duties of responsibility at her agency. Dr. Oji's testimony and evidence in applicant's exhibits provide compelling evidence of applicant's rehabilitation. Applicant has also demonstrated sincere remorse before this Panel. The Panel strongly believes this based on its observations of applicant's demeanor before us throughout this proceeding.

The Panel believes the risk of recidivism by 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 and that such restoration is in the public interest.

Respectfully submitted,

IRA SALOM, M.D.,

Chairperson

STANFORD ROMAN, JR., M.D.

SEYMOUR COHEN, M.D.

- 5 MARCH 103

Chairperson

Dated