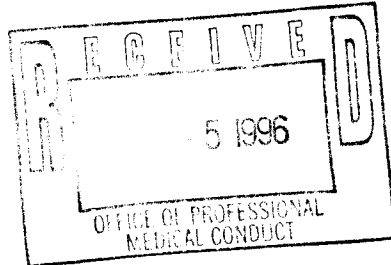


THE STATE EDUCATION DEPARTMENT THE UNIVERSITY OF THE STATE OF NEW YORK ALBANY, NEW YORK

OFFICE OF PROFESSIONAL EXAMINERS 100 SOUTH STREET, 10TH FLOOR, ALBANY, NEW YORK 12242



August 21, 1996

Ernest P. Miller, Physician's Assistant
RD #2, Box 28
Bloomingburg, New York 12721-9504

Re: Application for Restoration

Dear Mr. Miller:

Enclosed please find the Commissioner's Order regarding Case No. 96-2-23R which is in reference to Calendar No. 0015310. This order and any decision contained therein goes into effect five (5) days after the date of this letter.

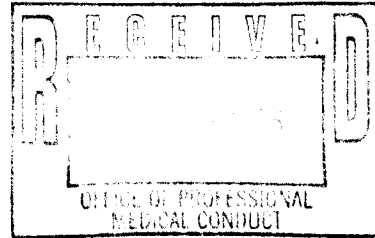
Very truly yours,

DANIEL J. KELLEHER
Director of Investigations

By: *Gustave Martine*

Gustave Martine
Supervisor

The University of the State of New York
Education  Department



IN THE MATTER

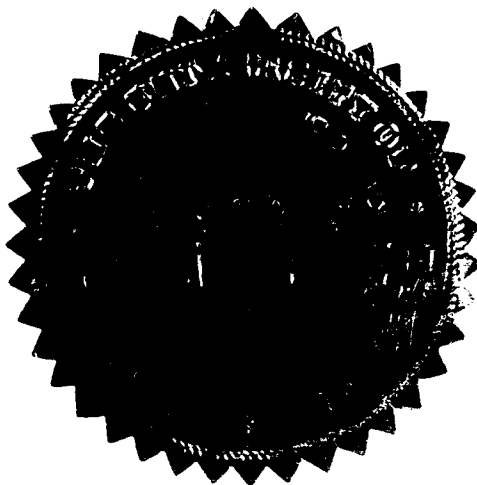
of the

Application of ERNEST P. MILLER
for restoration of his license to practice
as a physician assistant in the State of New York

Case No. 96-2-23R

It appearing that the license of ERNEST P. MILLER, RD 2 Box 28, Bloomingburg, New York 12721-9504, to practice as a physician assistant in the State of New York, was revoked by action of the Board of Regents on January 19, 1982, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition, and having agreed with and accepted the recommendations of the Peer Review Panel and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on July 19, 1996, it is hereby

ORDERED that the petition for restoration of License No. 000720, authorizing ERNEST P. MILLER to practice as a physician assistant in the State of New York, is denied, but that the revocation of said license is stayed and petitioner is placed on probation for a period of two years under specified terms and conditions.



IN WITNESS WHEREOF, I, THOMAS E. SHELDON, Acting 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 8th day of August, 1996.



Acting Commissioner of Education

Case No. 96-2-23R

It appearing that the license of ERNEST P. MILLER, RD 2 Box 28, Bloomingburg, New York 12721-9504, to practice as a physician assistant in the State of New York, having been revoked by action of the Board of Regents on January 19, 1982, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition, and having agreed with and accepted the recommendations of the Peer Review Panel and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on July 19, 1996 it was

VOTED that the petition for restoration of License No. 000720, authorizing ERNEST P. MILLER to practice as a physician assistant in the State of New York, be denied, but that the revocation of said license be stayed and petitioner be placed on probation for a period of two years under specified terms and conditions.

EXHIBIT "A"

TERMS OF PROBATION
OF THE PEER COMMITTEE

ERNEST P. MILLER

CALENDAR NO. 15310

1. That applicant 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 applicant is in compliance with the following:
 - a. That applicant, during the period of probation, shall be in compliance with the standards of conduct prescribed by the law governing applicant's profession;
 - b. That applicant 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, applicant's residence, telephone number, or mailing address, and of any change in applicant's employment, practice, residence, telephone number, or mailing address within or without the State of New York;
 - c. That applicant shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that applicant has paid all registration fees due and owing to the NYSED and applicant shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by applicant 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; and
 - d. That applicant 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) applicant is currently registered with the NYSED, unless applicant submits written proof to the New York State Department of Health, that applicant has

ERNEST P. MILLER (15310)

advised DPLS, NYSED, that applicant is not
in the State of New York and does not wish to
register, and that 2) applicant has paid any
fines which may have previously been imposed upon
him by the Board of Regents, and that of

96-2-23R
May 1, 1996

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: Ernest P. Miller

Attorney: Anthony LaBella

Ernest P. Miller, RD 2 Box 28, Bloomingburg, New York 12721-9504, petitioned for restoration of his registered physician assistant license. The chronology of events is as follows:

- 04/15/77 Issued license number 293797 to practice as a registered professional nurse in New York State.
- 08/19/77 Issued license number 000720 to practice as a registered physician assistant in New York State.
- 05/05/81 Charged by Department of Health with professional misconduct as a registered physician assistant. (See "Disciplinary History.")
- 01/13/82 Regents Review Committee recommended revocation.
- 01/19/82 Board of Regents voted revocation.
- 03/02/82 Commissioner's Order effective.
- 03/30/89 Charged by State Education Department with professional misconduct as a registered professional nurse.
- 03/30/89 Applied for consent order imposing penalty of two year suspension of registered professional nurse license, suspension stayed, two years probation.
- 05/19/89 Board of Regents voted to grant application for consent order.
- 06/27/89 Commissioner's Order effective.
- 01/30/93 Petition for restoration of registered physician assistant license submitted.
- 03/03/95 Peer Panel restoration review.
- 11/29/95 Report and recommendation of Peer Review Panel. (See "Recommendation of the Peer Review Panel.")

05/01/96 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 and Application for Consent Order.) On May 5, 1981, the Department of Health charged Mr. Miller with five specifications of professional misconduct as a registered physician assistant. On July 15, 1981, the Hearing Committee (Walker, Grossman, Parker, Manpel, Couperthwait) of the Department of Health, State Board for Professional Medical Conduct, found Mr. Miller guilty of the fourth and fifth specifications of professional misconduct. The fourth specification charged Mr. Miller with having violated Public Health Law §3701 in that, among other things and incidents, on or about and between February 1979 and November 1979, he issued prescriptions for controlled substances despite his lack of authorization to do so. The fifth specification charged Mr. Miller with being guilty of unprofessional conduct in that, among other things and incidents:

(a) On or about and during 1979 he failed in a willful or grossly negligent manner to comply with substantial provisions of State Laws, rules, and regulations governing the practice of the profession of Physician Assistant.

(b) On or about and during 1979 he failed in a willful or grossly negligent manner to comply with substantial provisions of the State Law, rules, and regulations governing the practice of the profession of Physician Assistant by his violation of Public Health Law, §3335, through his possession of marijuana and other illegally possessed drugs, and by his unlawful use of controlled substances for his own habitual use.

The Hearing Committee recommended the partial suspension of Mr. Miller's license which would allow him to be employed as a physician assistant only in a medical facility under the direct daily supervision of a physician as a course of retraining for a period of at least one year. The Commissioner of Health recommended acceptance of the Findings of Fact and Conclusions of the Hearing Committee, but recommended the suspension of Mr. Miller's license for three years, that said suspension be stayed, that he be placed on probation for three years, and that Mr. Miller be allowed to work only in a medical facility under the direct daily supervision of a physician, for at least the first year of such suspension, and that Mr. Miller continue to work in such manner for the remainder of the period of such suspension unless the Board of Regents or the Education Department determined, through supervision of the terms of probation, that he could effectively practice without such direct and immediate supervision.

On January 13, 1982, the Regents Review Committee (Barell, Picariello, Spohr) recommended acceptance of the findings and conclusions of the Hearing Committee and Commissioner of Health. However, the Regents Review Committee recommended revocation of Mr. Miller's license. On January 19, 1982, the Board of Regents voted to revoke Mr. Miller's license. The Commissioner's Order became effective on March 2, 1982.

Recommendation of the Peer Review Panel. (See attached report of the Peer Review Panel.) The Peer Review Panel (Gonzalez, Connor, Santiago) met on March 3, 1995. In its report dated November 29, 1995, the Panel recommended that the revocation of Mr. Miller's license be stayed and that he be placed on probation for two years under specified terms and conditions including: passing the Boards of the N.C.C.P.A; direct, on-site supervision of practice by a physician; and the submission of quarterly reports by the supervising physician.

Recommendation of the Committee on the Professions. On May 1, 1996, the Committee on the Professions (Duncan-Poitier, Porter, Muñoz) reviewed the petition of Mr. Ernest P. Miller for the restoration of his license as a registered physician assistant. Mr. Miller appeared personally and was represented by an attorney, Mr. Anthony LaBella.

Mr. Miller began the meeting with the Committee by giving background information consistent with that contained in the Peer Review Panel Report. He explained that when he began working for Dr. Foot in the Adirondack area of New York, Dr. Foot was 60 miles away and he only saw him once a week. In retrospect Mr. Miller believes this was too much freedom for a relatively recent graduate. Mr. Miller explained that he began to drink to ease some of the tension from his job and that he began to use certain medications to which he had access. He stated that initially he didn't realize that he was developing a problem because he thought he was too smart to become dependent on alcohol or drugs. Mr. Miller said that when he was confronted with his problem approximately eight years ago, he went into a 28 day detox program and he has not used alcohol or drugs since that time. He stated he completed a 12 step program and participates in AA and NA. His rehabilitation efforts are documented in the Peer Review Panel Report.

Mr. Miller explained that since his rehabilitation, his priorities have changed. Now his priorities include keeping himself healthy, maintaining a good relationship with his wife and friends, and keeping his work in perspective.

Mr. Miller continued by describing his work experiences since his recovery. He is currently working at Orange County Mental

Health Services, where he has served as a Charge Nurse and a Night Supervisor. He also worked as a R.N. at St. Luke's in 1987 and 1988, and immediately prior to his Orange County position he worked for 2 1/2 years at Craig House, a private psychiatric facility.

The Committee asked Mr. Miller what the restoration of his license would enable him to do that he cannot do in his current position with Orange County. Mr. Miller explained that he could be more effective in working with the psychiatrists on staff for the County. He explained that the County has trouble finding psychiatrists and that he could work there under the supervision of a psychiatrist to provide services beyond the scope of his R.N. license.

Mr. Miller further explained that he has continued his efforts toward additional education by obtaining certification as an alcoholism counselor. He has also received his certification as a psychiatric nurse from the American Nurses Association. In addition, Mr. Miller has received his Bachelor's Degree in Liberal Arts from Regents College and is now enrolled in a Master's Degree program at Pace University.

The Committee questioned Mr. Miller on what he had learned from his experience and what lessons he could carry forward. Mr. Miller responded that his addiction problem will be with him forever, but through his recovery program and his change in priorities he has learned to control it. He stated that the agony he put others through stays with him, and this experience has helped him gain knowledge in the area of human relations. It also continually helps him to keep his priorities straight. Mr. Miller stated that he now prefers to work in a team environment. In referencing his earlier actions, he observed that "I thought then I knew everything -- I know now that I knew very little."

When asked his reaction to the Peer Review Panel's recommendation, Mr. Miller stated that he was in agreement with the Panel's recommendation and with the terms of probation it specified.

After a complete review of the record, the Committee on the Professions voted unanimously to recommend to the Board of Regents that the recommendation of the Peer Review Panel be adopted and that the Commissioner's Order revoking Mr. Miller's license be stayed and that he be placed on probation for two years under the terms of probation set forth as Exhibit A attached to the Report and Recommendation of the Peer Review Panel.