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

OFFICE OF PROFESSIONAL DISCIPLINE  
(718) 246-3060/3061

195 Montague Street - Fourth Floor  
Brooklyn, New York 11201

October 30, 2008

Lawrence Nessman, Physician

Redacted Address

Re: Application for Restoration

Dear Dr. Nessman:

Enclosed please find the Commissioner's Order regarding Case No. CP-08-12 which is in reference to Calendar No. 22627. 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:  
Redacted Signature

Ariana Miller  
Supervisor

DJK/AM/er



The  
University of the  
Education  State of New York  
Department

IN THE MATTER

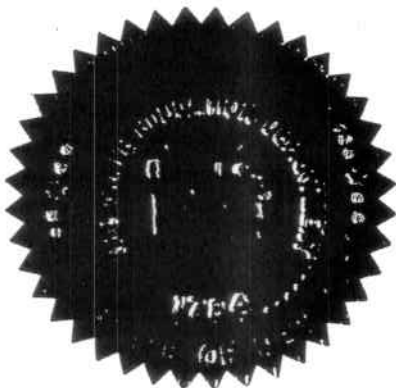
of the

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

Case No. CP-08-12

It appearing that the license of LAWRENCE NESSMAN, Redacted Address  
to practice as a physician in the State of New York was surrendered  
by order of the State Board for Professional Medical Conduct dated June 17, 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 reviewed the record, and having disagreed with the  
recommendation of the Peer Committee, and having agreed with and adopted the  
recommendation of the Committee on the Professions, now, pursuant to action taken by the  
Board of Regents on July 28, 2008, it is hereby

ORDERED that the petition for restoration of License No. 092316, authorizing  
LAWRENCE NESSMAN to practice as a physician in the State of New York, is 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 24<sup>th</sup>  
day of October, 2008.

Redacted Signature  
Commissioner of Education

Case No. CP-08-12

It appearing that the license of LAWRENCE NESSMAN, Redacted Address  
to practice as a physician in the State of New York, was surrendered  
by order of the State Board for Professional Medical Conduct dated June 17, 1997, and he having  
petitioned the Board of Regents for restoration of said license, and the Regents having given  
consideration to said petition and the record, including petitioner's submission in response to the  
draft report of the Committee on the Professions, and having disagreed with and rejected the  
recommendation of the Peer Committee, and having agreed with and adopted the  
recommendation of the Committee on the Professions for the reasons set forth in that  
recommendation, now, pursuant to action taken by the Board of Regents on July 28, 2008, it is  
hereby

VOTED that the petition for restoration of License No. 092316, authorizing  
LAWRENCE NESSMAN to practice as a physician in the State of New York, is denied.

Case Number  
CP-08-12  
July 9, 2008

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: Lawrence Nessman**

Attorney: N/A

Lawrence Nessman, Redacted Address  
petitioned for restoration of his physician license. The chronology of events is as follows:

- 07/01/64 Issued license number 092316 to practice medicine in New York State.
- 10/09/96 Charged with professional misconduct by the New Jersey Board of Medicine.
- 03/06/97 New Jersey medical license revoked.
- 06/05/97 Charged with professional misconduct by the New York State Department of Health.
- 06/18/97 The State Board for Professional Medical Conduct accepted the application to surrender his license to practice.
- 07/23/98 First application for restoration submitted.
- 11/10/00 First Peer Committee restoration review.
- 09/05/01 First Report and Recommendation of Peer Committee. (See "Recommendation of the Peer Committee.")
- 11/19/01 First Committee on the Professions meeting with applicant.
- 01/22/02 First Report and Recommendation of the Committee on the Professions.
- 02/12/02 Board of Regents voted denial of first restoration application.
- 04/12/05 Second application for restoration submitted.

- 05/16/06 Second Peer Committee restoration review.
- 11/10/06 Second Report and Recommendation of Peer Committee. (See "Recommendation of the Peer Committee.")
- 10/17/07 Second Committee on the Professions restoration review.
- 07/09/08 Second Report and Recommendation of Committee on the Professions.

**Disciplinary History.** (See attached Surrender of License BPMC #97-141.) In 1996 Dr. Nessman was charged by the New Jersey State Board of Medical Examiners with 104 counts of misconduct alleging that from at least 1990 through 1995, he engaged in a widespread pattern of economic fraud involving hundreds of patients at his office in Wayne and Paterson, NJ. By final order dated March 6, 1997, the New Jersey Board determined, based on Dr. Nessman's admission, that during the approximate period of at least 1990 through 1996, he engaged in unprofessional conduct by repeated acts of dishonesty, fraud, deception, misrepresentation, false promise and/or false pretenses by fraudulently billing an insurance company for services which were never provided to its insured participants. Dr. Nessman's New Jersey license was revoked, he was ordered to pay \$93,443.63 in costs, and the order provided that his license was "revoked with prejudice to any further application for reinstatement at any time."

On June 5, 1997, the New York State Department of Health charged Dr. Nessman with one specification of professional misconduct for having been found guilty of improper professional practice or professional misconduct by a disciplinary agency of another state (New Jersey) where the conduct, if committed in New York State, would constitute professional misconduct. Dr. Nessman did not contest the charges, and the State Board for Professional Medical Conduct accepted Dr. Nessman's application to surrender his New York State license.

On July 23, 1998 Dr. Nessman submitted his first application for restoration of his medical license. On November 10, 2000, he appeared before the Peer Committee in connection with his application, and on September 5, 2001, the Committee issued its report recommending against the restoration of his medical license. In the report, the Committee stated that the applicant failed to demonstrate any adequate degree of remorse and that he denied that any fraud had taken place despite the fact that he admitted to having committed fraud in the legal documentation that he signed relative to his misconduct. On November 19, 2001, Dr. Nessman appeared before the Committee on the Professions (COP) concerning his application, and on January 22, 2002, the COP issued its report, also recommending against the restoration of his medical license. In the report, the COP noted that the applicant failed to present a compelling case for restoration, that the aggressive tone and tenor of the New Jersey disciplinary action appeared to indicate the applicant was guilty of more than billing mistakes, and that there was no reason to restore the applicant's New York State license when the authorities in New Jersey, where the misconduct originated, had taken no such action.

On February 12, 2002 the New York State Board of Regents ordered that the applicant's application for restoration be denied.

On April 12, 2005, Dr. Nessman submitted the instant application for restoration of his medical license.

**Recommendation of the Peer Committee.** (See attached Report of the Peer Committee.) The Peer Committee (Kavaler, Diamond, Cordice) convened May 16, 2006. In its report dated November 10, 2006, the Committee unanimously recommended that the surrender of Dr. Nessman's license to practice as a physician be stayed and that he be placed on probation for five years, during which time he would be required to practice medicine only as a salaried physician under supervision in an Article 28 facility and/or the equivalent thereof on the federal level, with quarterly performance reports.

**Recommendation of the Committee on the Professions.** On October 17, 2007, the Committee on the Professions (O'Grady, Hansen, Earle) met with Dr. Nessman to consider his application for restoration. Dr. Nessman was not represented by an attorney.

The Committee asked Dr. Nessman to explain the events that led to the surrender of his license. He responded by telling the Committee that he was having problems getting an insurance company to pay the bills he submitted while in practice in New Jersey. He reported that he contacted the insurance company and was told that they had two years of his bills that were unpaid and would remain unpaid because of a two-year statute of limitations in New Jersey. He indicated that he told the insurer he would sue them, and that the company then agreed to pay him 75 percent of the amount of the bills which made him angry. He told the Committee that he then started billing for manipulation services he did not perform, which he stated he should not have done, to make up the difference. He stated that he was mad and that his desire to get even went beyond this particular insurance company. He explained that the insurance companies were not only doing this to him, but also to many others who may not have been aware of it.

Dr. Nessman told the committee that he instructed his nurse to check other insurance companies that were hardly paying anything, and he ended up taking the insurance companies to arbitration over the course of the next five years. He stated that this aggravated them because they had to pay their lawyers, as well as his attorney's fee with interest. He said he never lost a case.

Dr. Nessman stated that his claims against the insurance companies preceded his improper billing and that before that time there was no problem. He admitted that he did charge for manipulation when he wasn't in the office but indicated that, during the last 13 months, he had two different doctors in the office who were performing the manipulations legally. He said that he did not believe the fraudulent billing lasted for more than two years – not the five years stated in the charges brought by the New Jersey State Board of Medical Examiners. He stated that in New Jersey nurses were also legally able to do manipulation. He explained that he hired a professional billing

company, that an error was found in his billing, and that he made no effort to correct it because it only amounted to a difference of \$7.00 for each service.

When asked about why his license in New Jersey was "revoked with prejudice to any further application for reinstatement at any time," he responded he was told if he did not give up his license for good they would attach the bank accounts of his wife, nurses and others. He reported he did try to get his New Jersey license restored twice, and indicated that the first time, he asked Governor Whitman to look into his case which she did, but that then New Jersey wanted to fine him a million dollars so he dropped it. He reported that the second time, he wrote to President Bush, that he looked into the matter, and that the New Jersey Board then got in touch with the army to court-martial him and take his pension away, although that did not ultimately happen.

The COP asked Dr. Nessman what has changed since his initial application for restoration. He stated that he has taken courses on ethics and denial for CE credit. He explained that he is no longer in denial and knows he committed fraud, which he never should have done, and that he is very sorry for that.

When asked by the Committee if he had taken courses on anger management, Dr. Nessman responded yes. He then explained that he did not know why he needed to take these courses. He stated he did not believe that anger was an important factor that contributed to his misconduct. He went on to say if he was really angry, his military service provided him access to many weapons that he could have used.

When asked what he would do if his license was restored, he stated he would consider filling in for physicians while they are absent from their practices or he would consider working for the military. He believes he has a lot to offer, especially to the military where there is currently a shortage of physicians. He explained he would never do billing again and would only work for someone or the government.

In response to a question regarding his 1999 conviction, he answered by stating he did not know about it. He explained he paid the fine and got a letter from the State lifting all assessments on the bank accounts. He never went to jail, never had a probation officer, and had not been working since 1996.

The overarching concern in all restoration cases is the protection of the public. Education Law §6511 gives the Board of Regents discretionary authority to make the final decision regarding applications for the restoration of a professional license. Section 24.7 of the Rules of the Board of Regents charges the COP with submitting a recommendation to the Board of Regents on restoration applications. Although not mandated by 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 that 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 determination based upon the entire record.

The COP does not concur with the findings of the Peer Committee. We believe that Dr. Nessman did not present a compelling case that he understands the nature, causes, and effects of his misconduct and that he did not demonstrate an adequate degree of remorse concerning the actions that led to the revocation of his license.

It appeared to the Committee that Dr. Nessman's presentation before the COP was very different than the one described by the Peer Committee. We observed that he spent a significant amount of time focusing on the insurance companies and their alleged wrongdoings. His demeanor conveyed an attitude that the insurance companies are partially responsible for the demise of his professional career. He stated that the insurance companies had acted improperly not just against him, but against many others who may not have been aware of it. In addition it appears he has not come to terms with the severity of his actions in the State of New Jersey and its revocation of his license with prejudice. He twice attempted to restore his license by circumventing the legal system and contacting public officials. He seemed to believe that the involvement of Governor Whitman and President Bush in his attempt to get his New Jersey license restored lent some validity to his assertions that the New Jersey State Board of Medical Examiners had acted improperly when it revoked his license with prejudice. We believe that Dr. Nessman has not come to terms with his misconduct; rather, he appeared to defend his initial reasoning for committing the misconduct.

Dr. Nessman did not seem to understand the significance that anger played in his misconduct. During his testimony he minimized and used an example of what he could have done if really angry, stating if he was really angry he had access to many weapons, through his military service. While he did complete the anger management courses, he did not appear to understand why they were important.

When asked about his 1999 New Jersey conviction of theft by deception based on his guilty plea of over-billing insurance companies, Dr. Nessman also seemed either unwilling or unable to explain it. Again he seemed to minimize it by stating that he was unaware of it and that he never went to jail, never had a probation officer and had not been working since 1996. In a letter subsequent to the COP's meeting with Dr. Nessman, he was presented with specific allegations concerning his criminal conviction and asked to specifically confirm or deny those allegations. In response, Dr. Nessman did not specifically confirm or deny some of the allegations. Rather, he stated that he was never arrested but pled guilty on the advice of his lawyer. He went on to explain his reasons for doing so, most of which involved the legal fees he would have incurred had he not pled guilty and his concern over charges that might have been brought against his staff. He also stated in his response that he "had to report to a woman in a trailer," but "as far as I know, I never reported to a probation office." It appears that Dr. Nessman was convicted in New Jersey of Theft by Deception in the 3<sup>rd</sup> Degree and required to pay an assessment of \$213,000. While he was given a custodial sentence, it was to be served at the end of his probation rather than before it, with the understanding that if he met all probation requirements, including full restitution, the custodial portion of his sentence would be vacated. It further appears that he satisfied these conditions and that the custodial portion of his sentence was, in fact, waived. We



are very concerned about Dr. Nessman's failure to fully address this serious matter when directly questioned about it at his meeting with the COP. Moreover, when afforded an additional opportunity to do so, he failed to specifically address all of the issues presented to him. Rather, he addressed some of the issues but spent most of his response explaining why he pled guilty and explaining how badly he was treated by law enforcement and by the insurance companies with which he had conflicts. Finally, although the restoration application form required that he provide a full explanation of any criminal convictions, he failed to do so in his application. These failures to forthrightly address the issues of his criminal conviction strengthen our concern, expressed above, that he has not come to terms with his misconduct.

In sum, we believe that the applicant did not present clear and convincing evidence that the misconduct would not recur and that the root causes of the misconduct have been addressed and satisfactorily dealt with by the applicant.

Based on all of the foregoing, a complete review of the record, and its meeting with him, the Committee on the Professions voted unanimously to deny restoration of Dr. Nessman's license to practice as a physician in New York State.

Erin O'Grady-Parent, Chair  
Stanley Hansen  
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

LAWRENCE NESSMAN

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

REPORT OF  
THE PEER COMMITTEE  
CAL. NO. 22627

-----X  
LAWRENCE NESSMAN, hereinafter known as the applicant, was previously licensed to practice as a physician in the State of New York by the New York State Education Department.

## PRIOR DISCIPLINE

In 1996, the applicant was charged in a disciplinary proceeding before the New Jersey State Board of Medical Examiners with 104 counts of misconduct alleging that from at least 1990 through 1995, he engaged in a widespread pattern of economic fraud involving hundreds of patients at his offices in Wayne and Paterson, N.J. It was alleged that the majority of the applicant's patients were receiving treatment for injuries sustained in automobile accidents, claims for which were being handled by the same attorney. The complaint alleged that on hundreds of occasions, the applicant billed for physician services purportedly rendered at his office on dates that airline manifests

LAWRENCE NESSMAN (22627)

confirmed that the applicant was in Florida. According to the Final Order dated March 6, 1997, signed by the applicant, the applicant admitted that from at least 1990 to 1996, he committed numerous violations of New Jersey State Law in his practice of medicine. The Order revoked the applicant's New Jersey Medical license and directed that the applicant pay State costs in the amount of \$93,443.63.

On June 5, 1997, the New York State Department of Health, Office of Professional Medical Conduct filed a Statement of Charges against the applicant in connection with his NYS Medical License, alleging that the applicant had committed professional misconduct by virtue of having been found guilty of improper professional practice or professional misconduct by a disciplinary agency of another state (New Jersey) where the conduct, if committed in New York State, would constitute professional misconduct. The State Board for Professional Medical Conduct accepted the applicant's application to surrender his NYS Medical license and issued a Surrender Order, signed by the applicant, wherein the applicant did not contest the allegations and the specification set forth in the Statement of Charges.

On July 23, 1998, the applicant submitted his first Application for Restoration of his New York State Medical License. The Office of Professional Discipline investigated the matter and interviewed the applicant in connection with his Application. At the interview, the applicant stated that the introduction of CPT

LAWRENCE NESSMAN (22627)

billing codes in 1990 created confusion and resulted in billing for office visits with codes that should only have been used when the physician was providing the treatment. On November 10, 2000, the applicant appeared before the Peer Committee in connection with his Application, and on September 5, 2001, the Committee issued its Report recommending against the restoration of the applicant's license. In the Report, the Committee stated that the applicant failed to demonstrate any adequate degree of remorse and that he denied that any fraud had taken place despite the fact that he admitted to having committed fraud in the legal documentation that he signed relative to his misconduct. On November 19, 2001, the applicant appeared before the Committee on the Professions (COP) concerning his Application, and on January 22, 2002, COP issued its Report, also opposing the restoration of the applicant's license. In the Report, COP noted that the applicant failed to present a compelling case for restoration, that the aggressive tone and tenor of the New Jersey disciplinary action appeared to indicate that the applicant was guilty of more than billing mistakes, and that there was no reason to restore the applicant's New York State license when the authorities in New Jersey, where the misconduct originated, had taken no such action. COP further noted that the New York State Department of Health issued a letter opposing the applicant's Application. On February 12, 2002, the New York State Board of Regents ordered that the applicant's Application for Restoration be denied.

THE APPLICATION

Regarding continuing medical education (CME), a letter attached to the Application states:

"I would like to take this opportunity to express my sorrow and remorse concerning my fraudulent billing. I have taken courses in billing, coding, and avoiding fraud and abuse and denial. I have also taken over two hundred CME credits since 2001."

"I have attended medical conventions in New York, New Jersey and in Florida. Many of these courses at the conventions concerned billing and fraud. This acknowledges the fact that I have kept up with medical education up until the present time."

The Application also states that the applicant reads medical journals and has discussions with other physicians regarding medicine.

The Application also states that the applicant has taken courses on denial.

Regarding community service, the Application lists months and years of volunteer work by the applicant from the 1960's through the 1990's.

INVESTIGATIVE INTERVIEW

On August 30, 2005, the applicant was interviewed at OPD in connection with his current Application for Restoration. He stated as follows:

The applicant stated that he surrendered his New Jersey and

LAWRENCE NESSMAN (22627)

New York Medical licenses because he billed a number of insurance companies for services (manipulations) that he had not rendered. This occurred while he was embroiled in disputes with these companies over their refusal to properly pay his legitimate claims. In response, to "get even" with them, he billed them for services that he had not personally rendered. The applicant does not know how extensive this billing fraud was but he did not believe that it was as extensive as alleged. He also did not believe that it occurred over a six year period as alleged but rather over a two or three year period. The applicant said he knows that what he did was wrong and that he is remorseful and sorry that he degraded his profession. Concerning the fraudulent billing, the applicant indicated that at the time of occurrence, he employed three nurses at his office. The applicant was absent from the office on some of the dates of billed services, but the office was open and the nurses rendered physical therapy to the patients (Applicant stated that nurses may legally render physical therapy in New Jersey). He stated that the improper billing occurred when he filed claims indicating that he provided manipulations on those occasions when, in fact, nurses rendered physical therapy.

As to the applicant's account in the prior restoration proceeding that his inaccurate billing involved clerical errors related to confusion about CPT billing codes, the applicant stated that he gave an incorrect account in the prior proceeding. He

**LAWRENCE NESSMAN (22627)**

stated that he gave that account because he was in denial at the time. He now acknowledges that he committed billing fraud and that the billing did not involve innocent clerical errors. The applicant stated that if reinstated, there will be no recurrence. He noted that greed was not his motivation at the time, but rather he wanted to punish the insurance companies for not paying his claims. As to his plans if reinstated, the applicant stated that he will consider filling in for physicians while they are absent from their practices or he would consider working for the military, which currently has a shortage of physicians.

As to the applicant's efforts, if any, at reinstatement in New Jersey, he stated that when he surrendered his license, he signed an agreement barring him from applying for reinstatement in New Jersey. He stated that he signed the agreement because the authorities informed him that if he did not, they would freeze his property, bank accounts, and finances as well as those of his wife and office manager. In light of the agreement, he has been unable to formally apply for reinstatement in New Jersey. Nonetheless, he made three attempts to regain his New Jersey license. Approximately four years ago, he wrote to New Jersey Governor Whitman and requested her assistance. She interceded on his behalf but the authorities responded by threatening to increase his fine by 1000%. Governor Whitman left office shortly thereafter and the applicant dropped the matter. Approximately six months later, he requested assistance from President Bush, who

LAWRENCE NESSMAN (22627)

interceded on his behalf. In response, the State of New Jersey contacted the Army (applicant is a retired Colonel) and urged them to court martial the applicant and take away his pension. The Army initiated proceedings against the applicant but took no action against him. The applicant again dropped the matter. Approximately two years ago, the applicant contacted a Senator for assistance. The Senator interceded but the result was that the applicant's office nurses were summoned to the Nursing Board for an appearance. The nurses were not sanctioned but the applicant again discontinued his effort. The applicant stated that he is unable to apply for restoration in New Jersey through the normal channels because of the agreement that he signed, and that his efforts to regain his license through outside sources have been unsuccessful.

As to why he believed that the State of New Jersey was so adamant in preventing him from practicing medicine in New Jersey, the applicant stated that prior to his surrender, he antagonized the insurance companies by taking them to arbitration and winning every case. He believes that the insurance companies influenced the New Jersey authorities against him, although he acknowledged that his own fraudulent billing practices were a factor as well.

As to his personal circumstances, the applicant stated that he had a private general medical practice in New Jersey from 1963 through 1997, and has had no paid employment since 1997. He presently writes an article per week for a media watch group on an



LAWRENCE NESSMAN (22627)

unpaid basis, he reads, attends conventions, and attends to his family. The applicant resides with his wife. His four adult children reside independently. The applicant stated that his financial needs are modest and he is financially fine, and that his motivation for applying for restoration is his love of medicine. He stated that he has a lot to offer, particularly with the war going on and the military in need of physicians and that he has kept abreast of his profession by taking courses through the AOA, as documented in his submission.

THE MEETING

On May 16, 2006, this Peer Panel met to consider the application in this matter. The applicant appeared and elected to proceed without an attorney. Dennis Spillane, Esq. represented the Division of Prosecutions of the Office of Professional Discipline.

During the course of the meeting, the applicant offered additional documents which were accepted and marked as applicant's exhibits A through L. (Note: the transcript assigns numbers to these exhibits).

The applicant spoke to the panel and repeated much of what is set forth in the investigative interview. He added that he had paid to send three of his secretaries from his former office to nursing school. One of these women is now his wife. He said he keeps up his CME by reading journals.

The applicant went on to say that the actual fraud that took

LAWRENCE NESSMAN (22627)

place in his office, which he had previously been in denial about, took place between 1992 and 1995 when only the three nurses and the technician were in his office. He said there was no fraud between 1990 and 1992 because one Dr. Stibler, M.D. was in his office and was legally performing procedures. He also said there was no fraud during the twelve to eighteen months (1995-1996) when one Dr. Colon, D.C. was in his office and was also legally performing procedures.

The applicant said he now devotes much of his time volunteering to work with disabled Israeli war veterans and raising money for indigent children. He said he has also volunteered at Fort Hamilton and West Point as an advisor.

The applicant added that when he was in practice his malpractice insurance company never had to pay on a claim. He said he would feel confident managing a patient if he is reinstated.

The applicant added that he had run a free pediatric clinic when he was licensed and often paid for the patient's prescriptions with his own funds.

Regarding his first attempt at restoration of his license, the applicant said he was in denial about the fraud involved in his former practice. He said he has since taken courses in denial and discussed his denial with his rabbi, his wife, fellow physicians and his attorney. He said he has taken at least ten courses in anger management. He said that to avoid problems in

LAWRENCE NESSMAN (22627)

the future that he would not be involved in billing.

Mr. Spillane closed by saying that the Department opposed the restoration of licensure in this matter.

The applicant closed by saying he hoped the panel would give him a second chance.

RECOMMENDATION

The Peer Committee has considered the entire record in this matter. We have considered the three criteria typically used in restoration determinations: remorse, reeducation, and rehabilitation.

There was no doubt by this Peer Committee that the applicant is remorseful for the actions that led to the revocation of his license. During his testimony, the applicant spoke of his denial during the prior matters that resulted in the revocations and denial of restoration. It was very clear to this committee that a different person has appeared before us today than appeared at the prior proceedings. The applicant has come to terms with his past misconduct.

We also believe the applicant's CME is very impressive as is his continuing history of volunteerism. We believe that, as a senior professional, the applicant has much to contribute to the medical community and the public.

We do not believe that the applicant would represent a threat to the safety of the public, were his license to be restored.

This committee does feel, however, that should the applicant

LAWRENCE NESSMAN (22627)

wish to return to the medical community that there should be specific guidelines and restrictions during a specific period of time.

Accordingly, we unanimously recommend that the application herein be granted and that the revocation of the applicant's license to practice medicine in the State of New York be stayed.

We further recommend that the applicant be placed on probation for a period of five years under the terms annexed hereto, made a part hereof, and marked as Exhibit A.

Respectfully submitted,

FLORENCE KAVALER, M.D., CHAIRPERSON

MARTIN DIAMOND, D.O.

JOHN W. CORDICE, JR., M.D.

Redacted Signature

✓ Chairperson

\_\_\_\_\_  
Dated

EXHIBIT A

TERMS OF PROBATION  
OF THE PEER COMMITTEE

LAWRENCE NESSMAN

CALENDAR NO. 22627

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 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, or 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), 2<sup>nd</sup> 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;

LAWRENCE NESSMAN (22627)

5. 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;
6. That, applicant, during the period of probation, shall practice medicine only as a salaried physician under supervision in an article 28 facility and/or the equivalent thereof on the federal level;
7. That applicant shall have quarterly performance reports submitted to DOH addressed to the Director, OPMC as aforesaid evaluating his performance as a physician in his place of employment, said reports to be prepared by applicant's supervisor;
8. That upon receipt of evidence of noncompliance with or any other violation of any of the aforementioned terms of probation, the New York State Education Department may initiate a violation of probation proceeding and/or such other proceedings pursuant to the Education Law and/or Rules of the Board of Regents.



(6)

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

Office of Professional Discipline, 475 Park Avenue South, 2nd Floor, New York, NY 10018-6901  
Tel. (212) 951-8400  
Fax (212) 951-8420  
E-mail: OP4INFO@MAIL.NYSED.GOV

March 21, 2002

Lawrence Nessman, Physician

Redacted Address

Re: Application for Restoration

Dear Dr. Nessman:

Enclosed please find the Commissioner's Order regarding Case No. CP-02-02 which is in reference to Calendar No. 18764. 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

Redacted Signature

Gustave Martine  
Supervisor

The  
University of the  
Education



State of New York  
Department

IN THE MATTER

of the

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

Case No. CP-02-02

It appearing that the application of LAWRENCE NESSMAN, Redacted Address

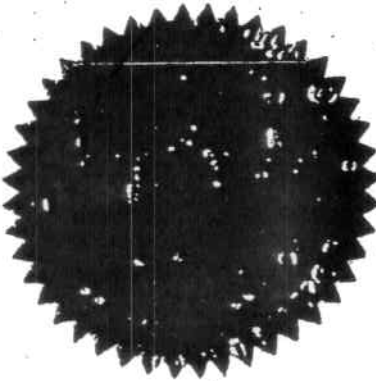
to surrender his license to practice as a physician in the State of New  
York, was accepted by the New York State Department of Health effective June 18, 1997, and he  
having petitioned the Board of Regents for restoration of said license, and the Regents having  
given consideration to said petition and having 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 February 12, 2002, it is hereby

ORDERED that the petition for restoration of License No. 092316, authorizing  
LAWRENCE NESSMAN to practice as a physician in the State of New York, is 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 12<sup>th</sup>  
day of March, 2002.

Redacted Signature

/ Commissioner of Education





It appearing that the application of LAWRENCE NESSMAN, Redacted Address  
) , to surrender his license to practice as a physician in the  
State of New York, was accepted by the New York State Department of Health effective June  
18, 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 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 February 12, 2002, it is hereby.

VOTED that the petition for restoration of License No. 092316, authorizing  
LAWRENCE NESSMAN to practice as a physician in the State of New York, is denied.

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: Lawrence Nessman

Not represented by counsel

Lawrence Nessman, Redacted Address  
petitioned for restoration of his physician license. The chronology of events is as follows:

- 08/20/64 Issued license number 092316 to practice as a physician in New York State.
- 06/05/97 Charged with professional misconduct by New York State Department of Health. (See "Disciplinary History.")
- 06/18/97 Effective date of Department of Health's acceptance of surrender of physician license.
- 07/23/98 Submitted application for restoration.
- 11/10/00 Peer Committee restoration review.
- 09/05/01 Report and recommendation of Peer Committee. (See "Report of the Peer Committee.")
- 11/19/01 Committee on the Professions restoration review.
- 01/22/02 Report and recommendation of Committee on the Professions. (See "Report of the Committee on the Professions.")

**Disciplinary History.** (See attached disciplinary documents.) On June 5, 1997, the Department of Health charged Dr. Nessman with professional misconduct by reason of his having been found guilty of improper professional practice or professional misconduct by a fully authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State. Dr. Nessman

admitted to the New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Board of Medical Examiners, that from at least 1990 through 1996 he committed numerous acts of dishonesty, fraud, deception, misrepresentation, false promises and/or false pretenses by fraudulently billing an insurance company for services which were never provided to its insured participants. The New Jersey Board revoked Dr. Nessman's license to practice medicine and ordered him to pay \$93,443.63 in fees. Dr. Nessman applied to the New York State Board for Professional Medical Conduct for an agreement to allow him to surrender his license as a physician in the State of New York with the understanding that he would not contest the allegations set forth in the Statement of Charges. The surrender was accepted by the State Board for Professional Medical Conduct effective June 18, 1997.

On July 23, 1998, Dr. Nessman submitted an application for restoration of his physician license.

Recommendation of the Peer Committee. (See attached "Report of the Peer Committee.") The Peer Committee (Boyce, Lopez, Robinson) met with Dr. Nessman on November 10, 2000 to review his application for restoration. In its report, dated September 5, 2001, the Committee recommended that the application be denied.

Recommendation of the Committee on the Professions. On November 19, 2001, the Committee on the Professions (Duncan-Poitier, Muñoz, Templeman) met with Dr. Nessman to review his application for restoration. In a transmittal dated October 26, 2001, Dr. Nessman updated the Committee on his "civic duties", organizational activities, and continuing medical education credits.

The Committee asked Dr. Nessman why he felt his license should be restored. Dr. Nessman replied, "It was the only problem he ever had in 31 years of practice." He referred to the letters of reference he submitted, the organizations to which he belonged and the offices he held in them, and his volunteer civic activities. The Committee asked that he discuss the basis for the surrender of his license. Dr. Nessman said the New Jersey Attorney General threatened to tie up his and his wife's bank accounts and put a lien on his house and property unless he agreed to give up his license to practice medicine for life in New Jersey. The Committee asked why he felt he was not entitled to due process. He replied, "It's only temporary, right? I only know what happened to other doctors. They committed suicide."

The Committee noted that the Peer Committee determined that Dr. Nessman did not display remorse and asked him for his comments on that assessment. Reading from prepared notes, Dr. Nessman acknowledged his "stupidity, shame and guilt" and asked for forgiveness for his transgressions and crime. The Committee noted that previously he claimed the inappropriate billings were a mistake and inquired as to whether that was still his position or whether they were intentional. Dr. Nessman replied, "It really doesn't make a difference. It's still fraud." He reported that two attorneys, a forensic accountant, and a lecturer told him that legally it didn't make a difference whether his actions were intentional or not as it was still considered to be fraud. The Committee told Dr. Nessman that it did matter to them. Dr. Nessman answered, "No, I didn't do it intentionally."

Dr. Nessman explained that there was only a difference of one number in the codes for a physician's billing and a nurse's billing. He said, "I thought I was billing for nurses." He indicated that the charges of misconduct related to one insurance company and all involved the same billing code error. After further questioning, he stated, "We may have given them the codes. I'm really not sure." Dr. Nessman reported that the insurance company did not pay for office visits if a physician was not seen and the visits should have been recorded with a nonpayable code. Dr. Nessman told the Committee that he was not aware of the billing discrepancies until the "fraud department told me." He reported he had made depositions "several dozen times" to the insurance company during a two-year period. He said that when he asked if there was a billing problem, "they never answered me." Dr. Nessman told the Committee that often an insurance company just wanted to know why you did certain procedures. The Committee noted that the New Jersey disciplinary documents reflected billing charges submitted for dates when he was in Florida.

Dr. Nessman said he settled with the insurance company for \$200,000. In addition, he had to pay \$93,000 to the New Jersey State Board. He reported that he sold his medical building and some property to pay off his debts. He indicated he did not know the status of his licenses in all the states in which he obtained them but did not believe that he currently had a valid license in any state.

The Committee asked Dr. Nessman what compelling reason he could provide for the restoration of his license considering the significant amount of fraud. He replied, "I'd like to go back to work. I live only 18 miles from Manhattan. I worked in New York with the military." The Committee asked the question again, saying that it did not want to know why he wanted to work in New York. Dr. Nessman said, "It took a lot of my money." He continued, saying that he had a lot of medical skills and talent. Further, he stated that claims submitted to 31 HMO's, for which the paperwork was done by hand, were "all O.K."

In summary, Dr. Nessman said he assumes full responsibility for the misconduct regardless of whether it was intentional or unintentional. He stated it was still fraud and makes no difference legally, as it is still a crime. He said, "It was hard for me to come to that realization." Dr. Nessman told the Committee that he has performed community service both before and after the surrender of his license in New York. He said in the last few years he has taken 10 courses in fraud and billing and has "also kept up my CME credits." Dr. Nessman said it was his fault for not knowing about the billing problems. He stated, "It was my responsibility."

The overarching concern in all restoration cases is public protection. Education Law (section 6511) gives the Board of Regents discretionary authority to make the final decision regarding restoration of a license to practice as a physician in New York State. Section 24.7(2) of the Rules of the Board of Regents 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 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 grievous and 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.

The COP finds that Dr. Nessman failed to present a compelling case for the restoration of his license. When asked specifically for a compelling reason, he responded by saying that he wanted to go back to work and Manhattan was only 18 miles away from where he lived. When pressed by the COP, Dr. Nessman stressed his need for money and his medical skills. The COP notes that Dr. Nessman failed to include any compelling factors related to remorse, rehabilitation, or reeducation in responding to the COP's question. In its recommendation that Dr. Nessman's application not be approved, the Department of Health stated that his application revealed "that Dr. Nessman just does not appreciate the very serious nature of the misconduct charges against him in the State of New Jersey." The COP acknowledges that Dr. Nessman doesn't need to surrender his claim of innocence, but it notes numerous discrepancies between his statements and the documentation in the record. The COP finds that the tone and tenor of the New Jersey disciplinary action is more aggressive than what might be expected for a physician who "just made a mistake" in confusing two billing codes. Based on the lack of documentation presented by Dr. Nessman to compel the restoration of his license, the COP finds no reason to recommend that his physician license be restored when New Jersey, the state in which the misconduct originated, has not determined that Dr. Nessman has taken the necessary steps that would warrant his being allowed to practice medicine again in that State.

Therefore, after a complete review of the record and its meeting with him, the Committee on the Professions concurs with the recommendation of the Peer Committee that Dr. Nessman's application for restoration of his license to practice medicine in the State of New York be denied at this time.

Johanna Duncan-Poitier, Chair

Frank Muñoz

Leslie Templeman



# 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

LAWRENCE NESSMAN

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

REPORT OF  
THE PEER  
COMMITTEE  
CAL. NO. 18764

-----X  
Applicant, Lawrence Nessman, was authorized to practice as a  
physician in the State of New York by the New York State Education  
Department.

## PRIOR DISCIPLINE

Applicant surrendered his license to practice as a physician  
in the State of New York, effective on June 19, 1997. He had been  
charged with professional misconduct by reason of having been  
found guilty of improper professional practice or professional  
misconduct by the professional disciplinary agency of another  
state, New Jersey. According to the New Jersey Order, applicant  
admitted that from at least 1990 through 1996, he committed  
numerous acts of dishonesty, fraud, deception, misrepresentation,  
false promise and or false pretenses by fraudulently billing an  
insurance company for services which were never provided to its

insured participants. The New Jersey Board revoked applicant's license to practice medicine with prejudice and ordered him to pay \$93,443.63 to the New Jersey Board.

In its final order, the New Jersey Board reported that the Verified Complaint filed by the Attorney General alleged in 104 counts that applicant from at least 1990 to 1995, engaged in a widespread pattern of economic fraud involving hundreds of patients at his offices located in Wayne and Paterson New Jersey. The majority of applicant's patients were receiving treatment relating to injuries sustained in auto accidents. It was alleged that on hundreds of occasions, applicant billed for physician services purportedly rendered in his office on the same dates that he was, in fact, in Florida.

Applicant is licensed to practice as a pharmacist in New York State but is not currently registered.

#### THE APPLICATION

On July 29, 1998 applicant petitioned the New York State Education Department for the restoration of his licensed to practice as a physician in the State of New York.

The application states in part:

"My problems will never reoccur, due to the fact that I have taken pertinent CME courses, relating to billing codes (CPT) and medical-legal problems. I have never had a problem with Medicare, Medicaid or the thirty plus HMOs in which I participated. The

billing for these was done by hand.

I would like to address remorse, which is difficult to put into words. On a one to ten basis, ten being the most remorse, I would put myself in the ten category.

I am in good physical and mental capacity and I am still on call for the Army Reserve until 1999 (even though I retired).

In all the years I was in practice, my malpractice insurance carrier never paid out one penny".

In another letter dated August 28, 2000 applicant states in part:

"Remorse: There are hardly any words that can describe the remorse I feel".

#### INVESTIGATIVE INTERVIEW

Applicant stated that in 1990, when CPT codes came into existence, he and his staff were not sure of the appropriate codes. In 1991, he hired a professional billing firm to do the billing. He stated that in 1992, when he inventoried the billing records, he learned that over 25% were in error. He stated that codes were used for office visits that should only be used when a doctor was providing the treatment.

Applicant stated that between 1990 and 1996, he appeared on numerous occasions to give depositions at the offices of various insurance carriers. Applicant stated that he was represented by counsel at each appearance. He claimed that he was never told why



he was giving depositions. He stated that he first realized that there was a problem with his practice when he appeared at the New Jersey Licensing Board hearing in 1996. Applicant stated that since his revocation he has been unemployed.

Applicant stated that as a result of his revocation in New Jersey, his licenses to practice medicine in California, Kentucky, Virginia, Pennsylvania and New York have been revoked.

Applicant stated that he has kept abreast of the profession by attending various seminars. He is a member of the American Physician Fellowship. He stated that the fellowship meets at Mt. Sinai Hospital, where he and other physicians train doctors from Israel. He stated that he subscribes to various medical journals, such as Medical Letters and Medical Economics.

Applicant stated that he presently resides with his wife, who is also unemployed. He stated that his investments and savings support him and his wife. He stated that he has four children, none of whom reside with him.

Applicant stated that this is his first application for the restoration of his license. Applicant stated that he is seeking restoration of his license because he wishes to return to the profession and to become gainfully employed. He stated that he feels that he has something to offer his patients.

Applicant stated that his physical and mental health is good. He stated that he has never been arrested.

THE MEETING

On November 10, 2000 this Peer Panel met to consider the application in this matter. Applicant appeared and elected to proceed without an attorney. Wayne Keyes, Esq. represented the Division of Prosecutions of the Office of Professional Discipline.

After preliminary opening remarks by the Chairperson the parties waived opening statements.

Applicant then spoke on his own behalf and repeated much of what is in his application and in the investigative interview.

Applicant also stated that he had paid the \$93,000.00 fine in New Jersey in full. Applicant also stated that he has not applied for restoration of licensure in New Jersey because the Attorney General there told him that he must give up his license there for life or face attachment of all his property.

Applicant stated he still has his medical license in Kentucky and Virginia but wants to practice in New York because he lives only eighteen miles from Manhattan and wants to do locum tenens work (to cover for other doctors in their offices while they are away).

When asked what he would do if he does not get his New York license restored, applicant stated that he has no future in medicine if he does not get his New York license restored.

Applicant stated that his misconduct consisted of "reckless billing". He stated that he never checked his bills. He stated

that he had also underbilled but that that did not count. He stated there was no intentional fraud.

When asked what he has been doing since the revocation of his license, applicant stated that he has taken courses in billing and fraud and has otherwise kept up his CME.

Applicant stated that he also is a member of a number of organizations involved with the practice of medicine.

Applicant went on to indicate that he believes many of his problems came about because the insurance companies involved did not like him because he took them to arbitration over his billing and he never lost. Therefore, he felt he was singled out for prosecution.

Upon further questioning, applicant admitted that he had signed the discipline papers herein which state that he committed acts of dishonesty, fraud and misrepresentation. However, he stated before this panel that his actions were not intentional fraud but billing errors. In that regard the following exchange took place on the record.

MR. ROBINSON: You committed a crime, yet your burden is to show this Board that you have appropriate remorse.

THE WITNESS: Yes.

MR. ROBINSON: If you, today, are denying acts of dishonesty and fraud, that would be a lie, the fact of

you showing any remorse.

THE WITNESS: No.

MR. ROBINSON: We are giving you an opportunity to show that remorse. Doctor, you can't have it both ways.

THE WITNESS: Well, I have remorse, you could call it - if you want to say it is fraud, I have remorse for fraud. I take full responsibility for everything that happened in my office, and I have remorse for everything that I have done. I'm not passing anything on to anybody. A physician is the boss in his office and he has to take full responsibility, and I take full responsibility. And as far as terminology, I'm only a physician, I'm not an attorney, and I take full responsibility for anything that I signed or anything that I did and I have remorse, believe me.

MR. ROBINSON: I have nothing further.

Applicant then called two witnesses who read prepared statements and answered questions.

During closing statements the following exchange took place on the record:

MR. SCHWIND: You don't have a closing statement to make?

DR. NESSMAN: No, I would just like to emphasize that I have remorse, and more remorse and more remorse, and

I'm not panning it off on anything. What I did is a crime, and not being an attorney, whatever you want to call the crime, I admit to it, and that's all I have to say.

THE CHAIRPERSON: Dr. Nessman, can you tell us what you mean by "remorse"?

DR. NESSMAN: Trepidations, and the way I feel about what has happened, that it is my fault. And it just bothers me that this happened. And I'm responsible for it, and it is my responsibility and I'm sorry, and it aggravates me. Like I said, I haven't been able to sleep, and it could never happen again".

Mr. Keyes closed saying that the department opposed the restoration of applicant's license.

#### RECOMMENDATION

We unanimously recommend that the application herein be denied. We base this recommendation in part on the demeanor of applicant while testifying before us.

Applicant has failed to demonstrate any adequate degree of remorse before us. He denies that any fraud took place even though he admitted fraud in the legal papers he signed regarding his misconduct. This panel gave applicant more than one opportunity to demonstrate remorse and he failed to do so.

LAWRENCE NESSMAN (18764)

We hope applicant will take this into consideration should he reapply in the future.

Respectfully submitted,

JOHN BOYCE, M.D., Chairperson

RAFAEL LOPEZ, M.D., Board Member

BENJAMIN ROBINSON, ESQ., Public Member

Redacted Signature

~~Chairperson~~

Dated



# STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.  
Commissioner

Dennis P. Whalen  
Executive Deputy Commissioner

## CERTIFICATION

STATE OF NEW YORK )  
 )  
 ) SS:  
 )  
COUNTY OF RENSSELAER)

Anne Bohenek, being duly sworn, deposes and says:

I am with the Office of Professional Medical Conduct, New York State Department of Health. I am an officer having legal custody of the records of the Office of Professional Medical Conduct. I, hereby, certify that the enclosed documents are true copies of documents from the files of the Office of Professional Medical Conduct in the case of :

Lawrence Nessman, <sup>RB</sup> MD  
NYS medical license # 092316

Redacted Signature

\_\_\_\_\_  
Anne Bohenek  
Public Health Representative IV  
Office of Professional Medical Conduct

Sworn to before me this 29<sup>th</sup> day of September 2005

Redacted Signature

\_\_\_\_\_  
Maureen Nelson  
Notary Public, State of New York  
Qualified in Saratoga County  
Commission expires Dec. 26, 2006  
No. 01NE6052575



Barbara A. DeBuono, M.D., M.P.H.  
Commissioner of Health

Patrick F. Carone, M.D., M.P.H.  
Chair  
Ansel R. Marks, M.D., J.D.  
Executive Secretary

June 18, 1997

**VIA OVERNIGHT MAIL**

Lawrence Nessman, D.O.

Redacted Address

RE: License No. 092316

Dear Dr. Nessman:

Enclosed please find Order #BPMC 97-141 of the New York State Board for Professional Medical Conduct. Personal service of this Order and all terms and penalty provided therein is effective upon the date of this letter by agreement of the parties.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

Board for Professional Medical Conduct  
New York State Department of Health  
Hedley Park Place, Suite 303  
433 River Street  
Troy, New York 12180

Sincerely,

Redacted Signature

Ansel R. Marks, M.D., J.D.  
Executive Secretary  
Board for Professional Medical Conduct

Enclosure

cc: Jude Brearton Mulvey, Esq.



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

-----X

IN THE MATTER : SURRENDER  
OF : ORDER  
LAWRENCE NESSMAN, D.O. : BPMC # 97-141

-----X

LAWRENCE NESSMAN, D.O., says:

On or about August 20, 1964, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 092316 by the New York State Education Department.

My current address is Redacted Address

, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I am not currently registered with the New York State Education Department to practice as a physician in the State of New York.

I understand that I have been charged with one specification of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A".

I am applying to the State Board for Professional Medical

Conduct for an agreement to allow me to surrender my license as a physician in the State of New York and request that the Board issue this Surrender Order.

I hereby agree not to contest the allegations and one specification set forth in the Statement of Charges (Exhibit A).

I understand that, in the event that this proposed agreement is not granted by the State Board for Professional Medical Conduct, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such proposed agreement shall not be used against me in any way, and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct pursuant to the provisions of the Public Health Law.

I agree that in the event the State Board for Professional Medical Conduct agrees with my proposal, this Order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me.

I am making this agreement of my own free will and accord and not under duress, compulsion, or restraint of any kind or manner.

Redacted Signature

LAWRENCE NESSMAN, D.O.  
Respondent

Subscribed before RIKESH K DESAI  
NOTARY PUBLIC OF NEW JERSEY  
day of June, 1997

Dilip D Desai 6/10/97  
NOTARY PUBLIC

AGREED TO:

Date:         , 1997

         Esq.  
Attorney for Respondent

Date: June 12, 1997

Redacted Signature

JUDE BREARTON MULVEY  
Assistant Counsel  
Bureau of Professional  
Medical Conduct

Date: June 16, 1997

Redacted Signature

ANNE F. SAILE  
Director, Office of  
Professional Medical Conduct

ORDER

Upon the proposed agreement of LAWRENCE NESSMAN, D.O., to Surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is AGREED TO and

ORDERED, that the proposed agreement and the provisions thereof are hereby adopted; it is further

ORDERED, that the name of Respondent be stricken from the roster of physicians in the State of New York; it is further

ORDERED, that this Order shall take effect as of the date of the personal service of this Order upon Respondent, upon receipt by Respondent of this Order via certified mail, or seven days after mailing of this Order via certified mail, whichever is earliest.

DATED: June 17, 1997

Redacted Signature

PATRICK F. CARONE, M.D., M.P.H.  
Chair  
State Board for Professional  
Medical Conduct

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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
LAWRENCE NESSMAN, D.O. : CHARGES

-----X

LAWRENCE NESSMAN, D.O., the Respondent, was authorized to practice medicine in New York State on August 20, 1964, by the issuance of license number 092316 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department.

**FACTUAL ALLEGATIONS**

1. The New Jersey Department of Law, and Public Safety, Division of Consumer Affairs, Board of Medical Examiners (hereafter the "New Jersey Board") by final Order dated March 6, 1997, determined that Respondent, during the approximate period of at least 1990 through 1996 engaged in unprofessional conduct by repeated acts of dishonesty, fraud, deception, misrepresentation, false promise and/or false pretenses in violation of New Jersey Statutes, Professions and Occupations 45:1-21(b) and (e).

2. More specifically, Respondent admitted that from at least 1990 through 1996 he committed numerous acts of dishonesty, fraud, deception, misrepresentation, false promises and/or false pretenses by fraudulently billing an insurance company for services which were never provided to its insured participants.
3. The New Jersey Board revoked Respondent's license to practice medicine with prejudice and ordered Respondent to pay \$93,443.63 to the New Jersey Board.
4. The conduct underlying the New Jersey Board's determination that Respondent was guilty of unprofessional conduct would, if committed in New York State, constitute professional misconduct under N.Y. Education Law §6530(2) [practicing the profession fraudulently] (McKinney Supp. 1997).

#### SPECIFICATION

Respondent is charged with professional misconduct under N.Y. Education Law §6530(9)(b) (McKinney Supp. 1997) by reason of having been found guilty of improper professional practice or professional misconduct by a fully authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of the New York State in that Petitioner charges:

1. The facts in paragraphs 1,2,3 and/or 4.

DATED:

*June 5*, 1997  
Albany, New York

Redacted Signature

---

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

PETER VERNIERO  
ATTORNEY GENERAL OF NEW JERSEY

FILED

By: Paul R. Kenny  
Deputy Attorney General  
Division of Law  
124 Halsey St., PO Box 45029  
Newark, New Jersey 07101  
Tel: 201-648-4742

March 6, 1997

NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF MEDICAL EXAMINERS  
OAL DOCKET NO. BDSME 11234-96N

IN THE MATTER OF THE SUSPENSION )  
OR REVOCATION OF THE LICENSE )  
OF:

LAWRENCE NESSMAN, D.O.

TO PRACTICE MEDICINE AND SURGERY  
IN THE STATE OF NEW JERSEY )

Administrative Action

FINAL ORDER

This matter was opened before the New Jersey State Board of Medical Examiners ("the Board") on the application for a temporary suspension of respondent's license to practice medicine brought by Attorney General Peter Verniero, by Paul R. Kenny, Deputy Attorney General. An order to show cause was signed by Bernard Robins, M.D., Vice President of the Board on October 1, 1996 by which a hearing was scheduled before the full Board on October 9, 1996.

The verified complaint filed simultaneously by the Attorney General, alleged in 104 counts that respondent from at least 1990 to 1995, engaged in a widespread pattern of economic fraud involving hundreds of patients at his offices located in Wayne and Paterson, New Jersey. It was alleged that the majority of respondent's patients were receiving treatment relating to injuries sustained in automobile accidents, claims for which were being handled by the same attorney. For the most part, medical expenses of these "accident victims" were

CERTIFIED TRUE COPY



paid by insurance companies pursuant to policies providing coverage for the motor vehicle accidents. The verified complaint alleged that on literally hundreds of occasions, respondent billed for physician services purportedly rendered in his office on the very dates that airline manifests confirmed that he was, in fact, in Florida.

On or about October 9, 1996, respondent filed a verified answer essentially denying the allegations in the complaint. A hearing pursuant to N.J.S.A. 45:1-22 was held before the entire Board of Medical Examiners on October 9, 1996. Following this hearing, the Board found that respondent's continued practice of medicine and surgery posed a clear and imminent danger to the public health, safety and welfare and, therefore, suspended respondent's license temporarily effective October 16, 1996. Thereafter, counsel for respondent, Anthony F. LaBue, Esq., filed an application seeking a stay of the Board's rulings before the Appellate Division of the Superior Court of New Jersey. That application was denied by order of the Appellate Division.

On or about October 29, 1996, this matter was transmitted to the Office of Administrative Law for further proceedings. The matter has not yet been assigned to an administrative law judge and no hearing dates have been set.

The parties being desirous of resolving this matter without further litigation, and respondent admitting that from at least 1990 to 1996, he committed numerous violations of N.J.S.A. 45:1-21(b) and (e) in his practice of medicine, and the Board finding the within resolution being in the public interest,

IT IS ON THIS 6th DAY OF March, 1997

ORDERED THAT:

1. The license of respondent Lawrence Neesman, D.O. to practice medicine and surgery in the State of New Jersey is hereby revoked with prejudice to any further application for reinstatement at any time. This revocation is effective immediately upon entry of this Order.

2. Respondent shall pay costs for the use of the State in the amount of \$93,443.63. Such payment shall be made by certified check or money order made payable to the New Jersey State Board of Medical Examiners and shall be made contemporaneously with the signing of this Order.

3. Respondent shall comply with the directives applicable to a Medical Board licensee whose license to practice medicine and surgery has been revoked, a copy of which is attached hereto and expressly made a part hereof.

NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS

Redacted Signature

By: Robert L. Johnson, M.D., FAAP  
President

I have read the terms of the  
within Order and I agree to  
be bound by them.

Redacted Signature

Lawrence Nessman, D.O.

*(Calvin A. R. Ref.)*

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE WHO IS  
SUSPENDED, REVOKED OR WHOSE SURRENDER OF LICENSURE HAS BEEN  
ACCEPTED**

The following directives shall apply when a license is suspended or revoked or permanently surrendered with or without prejudice.

**1. Document return and agency notification**

The licensee shall promptly deliver to the Board office at 140 East Front Street, 2nd floor, Trenton, New Jersey 08608, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the (DEA) of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

**2. Practice Cessation**

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his or her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or offer for rent at a fair market value office premises and/or equipment. In no case may the licensee authorize, allow or condone the use of his or her provider number by the practice or any other licensee or health care provider. (In situations where a licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his or her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if

possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescriptions and medications need not be destroyed but must be secured in a locked place for safekeeping.)

### 3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). Such divestiture shall occur within 90 days following the disqualification to own shares in the corporation. Upon divestiture a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

### 4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the name and telephone number of the licensee (or his or her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period the licensee shall file with the Board the name and telephone number of a contact person who will have access to medical records of former patients. Any change in that individual or his or her telephone number shall be promptly reported to the Board. When a patient or his or her representative requests a copy of his/her medical record or asks that that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge. patient.