

*The University of the State of New York*  
Education  Department

IN THE MATTER

of the

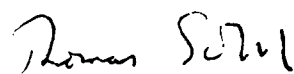
Application of EDWARD B. NOVAK  
for restoration of his license to practice  
medicine in the State of New York

Case No. 91-41-60R

It appearing that the license of EDWARD B. NOVAK, 30 Waterside Plaza, Apt. 13G, New York, New York 10010, to practice medicine in the State of New York, was revoked by action of the Board of Regents on April 24, 1987, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition, now, pursuant to action taken by the Board of Regents on March 22, 1991, it is hereby

ORDERED that the recommendations of the Peer Committee and the Committee on the Professions are accepted to the extent indicated, and that the petition for restoration of license No. 127986, authorizing EDWARD B. NOVAK to practice medicine in the State of New York, is denied, but that the revocation of said license is stayed and said EDWARD B. NOVAK is placed on probation for a period of three years under certain terms and conditions.

IN WITNESS WHEREOF, I, THOMAS SOBOL,  
Commissioner of Education of the State of New  
York, for and on behalf of the State Education  
Department, do hereunto set my hand and affix  
the seal of the State Education Department at  
the City of Albany, this 30<sup>th</sup> day of April, 1991.

  
Commissioner of Education

Case No. 91-41-60R

It appearing that the license of EDWARD B. NOVAK, 30 Waterside Plaza, Apt. 13G, New York, New York 10010, to practice medicine in the State of New York, having been revoked by action of the Board of Regents on April 24, 1987, and said EDWARD B. NOVAK having petitioned the Board of Regents for restoration of said license, after due deliberation, it was

VOTED that the recommendations of the Peer Committee and the Committee on the Professions are accepted to the extent indicated, that the petition for restoration of license No. 127986, authorizing EDWARD B. NOVAK to practice medicine in the State of New York, be denied, but that the revocation of said license be stayed and that said EDWARD B. NOVAK be placed on probation for a period of three years under certain terms and conditions.

## TERMS AND CONDITIONS

1. That petitioner, during the period of probation, shall act in all ways in a manner befitting petitioner's professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by petitioner's profession;
2. That petitioner shall submit written notification to the Director, Office of Professional Medical Conduct, Corning Tower, Room 438, Empire State Plaza, Albany, NY 12237, of any employment and practice, of residence and telephone number, of any change in employment, practice, residence, or telephone number within or without the State of New York;
3. That petitioner shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that petitioner has paid all registration fees due and owing to the NYSED and petitioner shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by petitioner to the Director, Office of Professional Medical Conduct, as aforesaid, no later than the first three months of the period of probation;
4. That petitioner shall submit written proof to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) petitioner is currently registered with the NYSED, unless petitioner submits written proof that petitioner has advised DPLS, NYSED, that petitioner is not engaging in the practice of petitioner's profession in the State of New York and does not desire to register, and that 2) petitioner has paid any fines which may have previously been imposed upon petitioner by the Board of Regents, said proof of the above to be submitted no later than the first two months of the period of probation;
5. That so long as there is full compliance with every term herein set forth, petitioner may continue to practice his aforementioned profession in accordance with the terms of probation; provided, however, that upon receipt of evidence of noncompliance with or any other violation of the aforementioned terms of probation, the Director, Office of Professional Medical Conduct may initiate a violation of probation proceeding and/or such other proceedings pursuant to the Public Health Law.

Case Number 91-41-60R  
January 14, 1991

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

Report of the Committee on the Professions

Re: **Edward B. Novak**  
30 Waterside Plaza, Apt. 13G  
New York, New York 10010

Edward B. Novak petitioned for restoration of his license to practice medicine which was revoked, effective May 13, 1987. The chronology of events is as follows:

- 08/13/76 Licensed to practice medicine in New York State.
- 04/06/87 Regents Review Committee recommended that license be revoked. (See "Disciplinary History.")
- 04/24/87 Board of Regents voted revocation.
- 05/13/87 Commissioner's Order effective.
- 12/08/88 Petition for restoration submitted. (See "Petition for Restoration.")
- 08/09/90 Peer Panel restoration review. (See "Report and Recommendation of Peer Review Panel.")
- 09/17/90 Report of Peer Review Panel.
- 01/14/91 Report of personal appearance and recommendation of the Committee on the Professions. (See "Recommendation of the Committee on the Professions.")

**Disciplinary History.** In May 1984 the Department of Health charged Dr. Novak with twenty-nine specifications of professional misconduct. The Hearing Committee (Buchanan, Bartoletti, Goldman, Moyer, Wroblewski) of the State Board for Professional Medical Conduct issued its report on September 12, 1986.

The Committee concluded that Dr. Novak practiced the profession fraudulently over the course of more than twenty months, while employed as a part-time physician at the Manhattan Center for Research into Stress and Pain Control, by prescribing Quaalude not in good faith, not in the course of regular professional practice,

and while aiding and abetting the distributions of massive amounts of Quaalude knowing it to be a drug of abuse and knowing no research regarding it was being conducted at the facility. They concluded that Dr. Novak practiced the profession with gross negligence, and with negligence on more than one occasion, by prescribing Quaalude to individuals for whom there was no medical indication for prescribing it, which demonstrated a disregard for the consequences of his prescribing practice at the facility and was a failure to exercise the care of a reasonably prudent physician. The Committee concluded that Dr. Novak failed to maintain adequate records and that the entries he made in patient charts were made to justify prescribing Quaalude as expected of him when there were no medical reasons to prescribe it. The Committee concluded that Dr. Novak, through his prescribing practices at the facility, engaged in conduct in the practice of medicine which evidenced moral unfitness to practice medicine, and finally, they concluded that in all of this Dr. Novak failed to comply with substantial provisions of law as charged. The Hearing Committee recommended unanimously that Dr. Novak's license be revoked and that he be fined \$10,000.

On September 12, 1986 the Commissioner of Health recommended that the findings of fact, conclusions and recommendation of the Hearing Committee be accepted in full.

On April 6, 1987 the Regents Review Committee (Griffith, Bolin, Picariello) recommended that the findings and conclusions of the Hearing Committee and the recommendation of the Commissioner of Health be accepted. They further recommended that a fine need not be imposed and that the measure of discipline be modified and that Dr. Novak's license be revoked.

On April 24, 1987 the Board of Regents voted to revoke Dr. Novak's license upon each specification of the charges of which he was found guilty. The Commissioner's Order was served effective May 13, 1987.

**Petition for Restoration.** In his petition for restoration, dated December 7, 1988, Dr. Novak described his part-time employment at the Manhattan Center for Research and Stress Control. He explained that he followed the program as directed and prescribed Quaalude in accordance with the protocol set by the medical director.

Continuing, Dr. Novak said that he accepted the employment at the Center as he was struggling to make ends meet and pay for the cost of setting up his own practice. Dr. Novak said that after a while he started to have doubts about the effectiveness of the treatment at the clinic but in those days "many physicians did not realize the potential of abuse of the sedatives that were not in the barbiturates group." Dr. Novak explained that his previous

experiences were in settings where the supervisors, such as medical directors, were responsible people and he did not realize that this situation was different. He contended that he was "not alert enough to rely on my own perceptions to guide me." Dr. Novak stated that he regrets that very much and now realizes that it was wrong to work there and follow the clinic's instructions blindly.

Since his resignation from the Center in the spring of 1981, Dr. Novak said that he has become increasingly aware of the problem of over prescribing sedatives and became "super-conscientious" about that aspect of prescribing. He declared that it is not his integrity, but his lack of understanding which is blameworthy regarding his experience at the Manhattan Stress Center.

Dr. Novak noted that he is licensed in other states and could have practiced medicine elsewhere but deliberately refrained from doing so. He stated that he earns a living as a computer consultant but that his colleagues and the administration at Cabrini Medical Center are eager to have him return to work there.

Dr. Novak explained that many of his former patients are elderly and speak little or no English and that the language barrier limits their choice of doctors. He said that he made house calls and every week treated a few patients free of charge.

Dr. Novak described the experience he is gaining while working as a volunteer with drug addicts and alcoholics at the Salvation Army and feels it will be valuable to him as a physician.

Relaying that he has become quite proficient in the field of computer science, Dr. Novak said that he sees it as useful in medicine, especially as a diagnostic aid. He indicated that he is also doing volunteer work using computers to help in the diagnosis and treatment of mentally retarded adults.

Contending that the revocation has been a very humbling experience, Dr. Novak said that it left him quite stunned and even somewhat broken spirited.

Dr. Novak listed the medical journals to which he subscribes and reads regularly. He described the "94 credits category 1" which he said he earned in 1988 as part of his continuing medical education. Dr. Novak concluded his petition by stating that he has been concentrating on perfecting his English skills so that he can protect himself "against misunderstanding subtleties in language which may have contributed to errors in judgement." He said that he now has a much better understanding of the ethical, sociological and political aspects of today's medicine and the physician's role in society.

Additional Information. The report of the routine investigation of the Office of Professional Discipline indicates that Kathleen Tanner, Director of the Office of Professional Medical Conduct, notified the Department that she is opposed to the restoration of Dr. Novak's license. Ms. Tanner believed that the length of time since the revocation was too short considering the serious nature of Dr. Novak's conduct. She indicated that she believes that Dr. Novak does not acknowledge the gravity of his errors and continues to blame others for his own misconduct. She stated that his volunteer work is suspect. She noted that Dr. Novak never advised the Salvation Army of the revocation, instead, he indicated that he was studying to be a doctor and that the volunteer work would help with treatment to patients in emergency rooms.

Ms. Marian Harttree, Major Assistant Administrator of the Salvation Army was contacted relative to Dr. Novak's volunteer work and confirmed that he did not advise her of the revocation but told her he was studying for his medical degree and that he was doing volunteer work to gain additional experience. Ms. Harttree said that Dr. Novak worked as a volunteer from October 1988 until April 1989 primarily conducting discussions following video presentations on substance abuse issues. Ms. Harttree said that for a period of approximately six to eight weeks, Dr. Novak did speak with individuals relative to personal problems but would not classify his function as counseling.

Report and Recommendation of Peer Review Panel. The report of the Peer Review Panel (Stark, Lucariello, Zwanger) dated September 17, 1990 indicated that they met on August 9, 1990. Dr. Novak appeared personally and was represented by his attorney, Ms. Maria Jasinska. The report reviewed Dr. Novak's disciplinary history and his petition for restoration.

Dr. Novak submitted a packet of material which included additional letters in support of his application and documents relating to his continuing medical education which he indicated totaled four hundred credit hours.

Ms. Jasinska began by explaining that Dr. Novak's prior attorney had defended the disciplinary charges by a claim of innocence which was a mistake. She noted the need of the Polish-speaking patients who are reluctant to go to other doctors. Ms. Jasinska refuted Ms. Tanner's comment by saying that additional time had passed since the revocation and also talked about Dr. Novak's volunteer work at the Salvation Army.

Dr. Andrew Kaminski, after setting forth his own credentials as a general practitioner in a predominantly Polish area of Brooklyn, testified on Dr. Novak's behalf. He spoke of the need for Polish-speaking physicians in the New York City area and said

that he has known Dr. Novak since 1981, has stayed close with him by telephone, and sees Dr. Novak's former patients. Dr. Kaminski stated that Dr. Novak told him that he will never again provide Valium and other tranquilizers that are unjustified or undocumented. Dr. Kaminski said that he hopes to have Dr. Novak join him and his partner in their practice and believes that Dr. Novak will perform in a professional manner. He conceded, however, that he was unaware at the time that Dr. Novak had been prescribing Quaalude as he did not see much of him at that time as he was too busy with a residency.

Dr. Novak began his testimony by stating that although he had fully disclosed all details to his attorney at the original discipline hearing, he was advised not to give a hint that he thought he had done something wrong and that he did not have the chance to make his own statement until he appeared before the Regents, when it was too late.

Dr. Novak recounted the circumstances relating to the Stress Center, his subsequent employment in private practice, the teaching of residents at Cabrini Hospital, and covering for other physicians. Dr. Novak said that he never prescribed Quaalude in his own practice and that even before the charges were brought he was so sensitive and overcautious he went overboard the other way trying to keep his private practice "clean." He talked about his continuing medical education and described his volunteer work at the Salvation Army as the most important. Dr. Novak denied telling the Salvation Army that he was a medical student but said that he told them he was a doctor but not licensed and suggested that he be treated like a medical student. Explaining that it is difficult to find volunteer work, he said that he did not want to jeopardize his chances for interesting work and was concerned that the clients would not respect him if they knew he had lost his license. He felt that he did not need to tell about the loss of his license as he was there to take his punishment and went two times a week to a dangerous neighborhood. Admitting that he had been ashamed and embarrassed about the revocation, Dr. Novak said that he had been rejected for employment in the pharmaceutical industry because of it.

Describing his professional misconduct as one hundred percent wrong, Dr. Novak said that since the revocation he has been in a protected environment where he now knows that he has to be his own judge, not obey orders.

When asked by the Department representative, Mr. Dennis K. Spillane, Esq., if he still believes that it was not his integrity but his lack of understanding which is blameworthy, Dr. Novak answered in the affirmative. Mr. Spillane then referred to the language used by the hearing committee to describe Dr. Novak's conduct and asked him if he still contended that it was not his



integrity that the Committee was talking about. Dr. Novak did not have an answer.

Mr. Spillane then directed Dr. Novak's attention to the dates on the subscriptions to the journals that Dr. Novak said he read. Replying, Dr. Novak said that he had been reading them in the library. Over the objection of Dr. Novak's attorney, Mr. Spillane submitted a letter from the New York Academy of Medicine, dated October 18, 1989, which verified Dr. Novak's attendance at only four sponsored courses. When asked if he had indeed only taken four courses, Dr. Novak said that sometimes the papers are not put in the box and noted that these courses did not represent the bulk of his credits. Referring to his petition, Mr. Spillane asked if it was a language skill problem that led to the errors in judgement. Dr. Novak replied that it was a question of semantics which could be argued for days regarding the meaning of words.

Mr. Spillane maintained that Dr. Novak is not remorseful because he is an intelligent, highly skilled professional, not an "immigrant off the boat" yet he equates a language error with an error in judgement by stating that it is not a question of integrity. Mr. Spillane commented that Dr. Novak's petition gives a false impression. He referred to Dr. Novak's misleading statements about having subscriptions to medical journals which he categorized as only having been obtained when Dr. Novak filed his petition. Mr. Spillane also asked if Dr. Novak's explanation for claiming credit for sixteen courses at the New York Academy had the ring of truth. Mr. Spillane also contended that Dr. Novak has not shown rehabilitation as you must admit that what you did was wrong and he had not.

Ms. Jasinska concluded by referring to the evidence presented including the letters of references from friends and other physicians who confirmed Dr. Novak's feelings of remorse. She stated that the evidence heard indicated that Dr. Novak, because of his ethnic background, has difficulty understanding the meaning of words which is why he couldn't explain the meaning of the word "integrity" when asked. Stating that there have been no improprieties since Dr. Novak left the Stress Center, Ms. Jasinska said this proves that he did not intend to return to any impropriety.

The Peer Panel took into consideration the entire record and while they believed that Dr. Novak's misconduct was of a very serious nature, they noted that such conduct occurred over a limited period of time, approximately ten years ago. As he has conducted himself, to the best of their knowledge, appropriately and with a serious determination to resume his medical practice, they concluded that the misconduct at issue is not likely to recur.

They, therefore, recommended unanimously that the Board of Regents stay the revocation of his license. However, the Panel was concerned regarding what they viewed as Dr. Novak's tendency to be something less than candid in his representations before them including his representations regarding his continuing medical education. Thus they further recommended unanimously that, concurrent with the stay of the Commissioner's Order, Dr. Novak be placed on probation for three years under terms and conditions including a monitored practice, and a course of continuing medical education. Additionally, they recommended that, if their recommendation is accepted by the Board of Regents, that such determination not become effective until six months after the effective date of the service of the Commissioner's Order to be issued herein.

Recommendation of the Committee on the Professions. Dr. Edward B. Novak, accompanied by his attorney, Ms. Maria Jasinska, Esq., appeared before the Committee on the Professions (Cantres, Sauer, Munoz) on January 14, 1991. In his appearance before the Committee, Dr. Novak provided additional documentation of his attendance at continuing education seminars and his professional journal subscriptions (Mayo Clinic Proceedings and New England Journal of Medicine.)

Dr. Novak explained that he was ashamed of his conduct in the improper prescription of Quaaludes. He has come to the conclusion that what he did was tremendously wrong.

Ms. Jasinska argued that Dr. Novak has rehabilitated himself. Some of the other doctors who worked at the Manhattan Center for Research into Stress and Pain Control fled the country and began practice in England, Germany or other jurisdictions. Dr. Novak, however, stayed in New York, accepted his punishment, and did volunteer work once per week at the Salvation Army residential program in the Hell's Kitchen section of New York City.

Dr. Novak explained that his work at the Manhattan Center for Research into Stress and Pain Control was part time (4 hours per week) seeing eight patients weekly. There were some patients for whom he refused to prescribe Quaaludes. After a period of time, Dr. Novak was uncomfortable with this employment and he quit. The Center representatives begged him to come back and he did so for a three-month period. He then quit for good and went back to his private practice in the Polish community.

There were no problems with the prescriptions of Quaaludes with Dr. Novak's private practice. In private practice Dr. Novak estimated he saw about 20 patients per day, 4 days per week in office visits and 4-5 patients per day in hospital visits.

In response to a question by the Committee as to whether he was treated fairly in the Quaalude incident, Dr. Novak replied that he deserved it, because what he did was wrong. His conscience tells him it was wrong.

Dr. Novak concluded his presentation to the Committee by summarizing his activities since the revocation. Included in that summary was his statement that he published a book, based on research, describing the medical and pharmaceutical infrastructure of the United States system.

In response to the Committee's question of what he would do if his license was restored, Dr. Novak stated he intended to go to work for Dr. Kaminski, or another physician in the Polish Community.

In deliberating on Dr. Novak's petition, the members of the Committee on the Professions found that Dr. Novak has demonstrated remorse by acknowledging that what he did was wrong. The acts for which his license was revoked occurred almost ten years ago. During these ten years he has taken concrete steps towards rehabilitation by his volunteer work at the Salvation Army and his efforts towards continuing education.

It is the unanimous recommendation of the Committee on the Professions that the revocation of Dr. Novak's license as a physician be stayed with the three-year probationary period recommended by the Peer Review Panel. However, in view of the almost ten years since the acts resulting in the revocation of his license, the Committee recommends that the stay of revocation not be deferred for six months as was recommended by the Peer Review Panel.

Lizette A. Cantres, Chair

Richard J. Sauer

Frank Munoz