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

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PUBLIC

April 8, 2004

Lloyd G. Bayme, Physician
REDACTED

Re: Application for Restoration

Dear Dr. Bayme:

Enclosed please find the Commissioner's Order regarding Case No. CP-04-03 which is in reference to Calendar No. 19940. 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

Gustave Martine
Supervisor

cc:

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APR 12 2004
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

The
University of the
Education  State of New York
Department

IN THE MATTER

of the

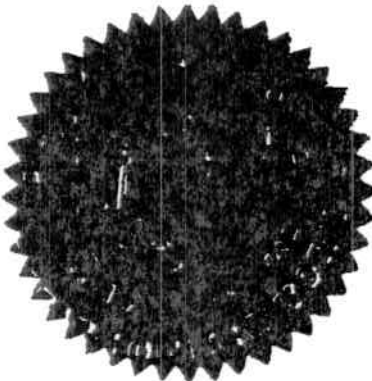
Application of LLOYD G. BAYME
for restoration of his license to
practice as a physician in the State of
New York.

Case No. CP-04-03

It appearing that the license of LLOYD G. BAYME, REDACTED

1, to practice as a physician in the State of New York, was surrendered pursuant to a consent order of the Department of Health, State Board for Professional Medical Conduct, effective November 19, 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 Committee and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on February 23, 2004, it is hereby

ORDERED that the petition for restoration of License No. 087211, authorizing LLOYD G. BAYME 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 23rd
day of March, 2004.

REDACTED

Commissioner of Education

Case No. CP-04-03

It appearing that the license of LLOYD G. BAYME, REDACTED

to practice as a physician in the State of New York, was surrendered pursuant to a consent order of the Department of Health, State Board for Professional Medical Conduct, effective November 19, 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 Committee and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on February 23, 2004, it was

VOTED that the petition for restoration of License No. 087211, authorizing LLOYD G. BAYME to practice as a physician in the State of New York, be denied.

RECEIVED
FEB 23 2004
STATE BOARD OF REGENTS
ALBANY, NY

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: Lloyd G. Bayme

Not Represented by an Attorney

Lloyd G. Bayme, REDACTED, petitioned for restoration of his physician license. The chronology of events is as follows:

- 02/19/62 Issued license number 087211 to practice as a physician in New York State.
- 10/1/97 Charged with professional misconduct by Department of Health. (See "Disciplinary History.")
- 11/6/97 Application for surrender of physician license accepted by Department of Health
- 11/19/97 Effective date of surrender.
- 02/05/01 Application for restoration submitted.
- 06/25/02
&
08/28/02 Peer Committee restoration review.
- 07/16/03 Report and recommendation of Peer Committee. (See "Report of the Peer Committee.")
- 11/04/03 Committee on the Professions restoration review.
- 01/16/04 Report and recommendation of Committee on the Professions. (See "Report of the Committee on the Professions.")

Disciplinary History. (See attached disciplinary documents.) On October 1, 1997, the Department of Health charged Dr. Bayme with 908 specifications of professional misconduct: moral unfitness, fraudulent practice, false reports, gross negligence, negligence on more than one occasion, failing to comply with a state law

governing the practice of medicine, record keeping, and noncompliance with records request. The charges alleged that he wrote 180 prescriptions outside the scope of proper medical practice and without appropriate medical reasons, that he failed to respond within 30 days to written requests from the Office of Professional Medical Conduct requesting the medical records of nine patients, and that he failed to maintain a record which accurately reflects the evaluation and treatment of the patients to whom he provided the 180 prescriptions. The alleged misconduct occurred between May 1994 and December 1996. On October 27, 1997, Dr. Bayme submitted an application to surrender his license, agreeing not to contest the allegations in the 545th through 725th specifications of professional misconduct in full satisfaction of the Statement of Charges. The surrender was effective November 19, 1997.

Dr. Bayme was also charged in Supreme Court, Kings County, with Criminal Sale of a Prescription for a Controlled Substance and Falsifying Business Records and, in a separate indictment, with Conspiracy in the Second Degree for the Criminal Sale of a Prescription for a Controlled Substance, Falsifying Business Records and Conspiracy. In satisfaction of these charges Dr. Bayme pleaded guilty on April 30, 1999 to Conspiracy in the Fourth degree and Criminal Sale of a Prescription for a Controlled Substance. On June 18, 1999, Dr. Bayme was sentenced to one day in jail, five years probation, and \$40,000 in fines and ordered to serve 1,820 hours of community service. As part of the sentencing agreement, Dr. Bayme stated that he would not seek restoration of his medical license.

On February 5, 2001, Dr. Bayme submitted his application for restoration of his physician license.

Recommendation of the Peer Committee. (See attached "Report of the Peer Committee.") The Peer Committee (Cohen, Lopez, Harris) met with Dr. Bayme on June 25 and June 28, 2002 to review his application for restoration. In its report, dated July 18, 2003, the Committee voted unanimously to recommend that his application for restoration of his physician license be denied.

Recommendation of the Committee on the Professions. On November 4, 2003, the Committee on the Professions (Duncan-Poitier, Porter, Munoz) met with Dr. Bayme to review his application for restoration. An attorney did not accompany him.

The Committee asked Dr. Bayme to explain why he lost his license. He replied that he received a letter for a hearing and was informed that he was the subject of an investigation. He reported that he hired an attorney recommended by his brother-in-law and that the attorney told him not to do anything as he would take care of everything. Dr. Bayme said that he wrote 180 illegal prescriptions during a three-year period and that it was irrational behavior on his part. He described his unique childhood trauma and the lingering effects of being a holocaust survivor. Dr. Bayme said that he has always tried to help people. He specifically referenced the assistance he provided to children in a psychiatric hospital and public health services he performed for the United States Army. He reported that he helped the Coast Guard take care of two Russian seamen and, as a result, had his picture in the paper. After Russian-speaking doctors saw his newspaper photograph, he told the Committee that he was asked and subsequently provided medical treatment to people in need of assistance in Russia.

Dr. Bayme said that he was eventually able to start a private practice as a physician and that his patients were primarily Russian immigrants. He reported that he practiced for over 25 years in Brooklyn and his practice was very successful. He said, "Somewhere along the line I became soft or other elements came into play." He explained that his teenage daughter was diagnosed with a brain tumor and that she had to wait three weeks for surgery. Dr. Bayme said that he subsequently moved his office across from a Cerebral Palsy facility to be closer to his daughter but that he also saw residents of the facility as patients. He told the Committee that the police department's 70th precinct was next door to his office and he "gave them a few prescriptions." He indicated that he started to give these prescriptions before the triplicate law procedures were in effect.

Dr. Bayme indicated that he rationalized his misconduct. He said he told himself that if the prescription was for an existing patient, then he didn't need to do a physical examination. He said, "Some politicians didn't want others to know the prescriptions they were taking" so he wrote them out in another person's name. He indicated that he found out some patients were also selling the prescriptions. Dr. Bayme said that the loss of his license has resulted in "six years of self-torture." He stated, "The only thing wrong with me is that I suffered very much from the shame." He indicated that he has five children and that they are all educated. He said that his oldest son is a practicing physician in Israel.

Dr. Bayme said that he was unsure why his lawyer and the psychiatrist at the Peer Committee meeting indicated that he might commit suicide if his license were not restored as he did not believe himself to be suicidal. Dr. Bayme told the Committee that he has a lot of experience caring for people through his activities in the military, his holocaust experiences, the cerebral palsy facility, and his work with the emotionally disturbed in a psychiatric hospital. He indicated that he has been in the Army Reserves for 18 years. Dr. Bayme referred to newspaper clippings he had brought with him which highlighted the shortage of doctors throughout the world. He said that he could help people through the Army Reserves or through Doctors of the World or Doctors without Borders. However, he stated, he needs his New York State license restored to do so. Dr. Bayme said that he would be useful in those settings as he is familiar with military tactics and "the underground." In addition, he stated that the Army likes him, that he has excellent health, and speaks five languages fluently. He indicated that he would be willing to go anywhere a physician is needed.

The Committee asked Dr. Bayme to comment on his agreement at the time of his sentencing on criminal charges not to seek restoration of his license. He replied, "I was totally out of it. Only the lawyers talked. I went from being a subject to an object."

In response to the Committee's inquiry, Dr. Bayme said that it was wrong to give prescriptions to those who didn't need them. He stated, "It was irrational." The Committee noted that he pled guilty to the criminal sale of prescriptions and asked why he would do this considering the potential harm to the public. He replied, "I understand it now. I'm sorry about it." He said that he realizes being busy was a poor excuse for what he did. He indicated that at the time he never saw any of the people who requested the prescriptions as drug abusers. He said, "Maybe it didn't hit me." Dr. Bayme said that he

has spoken to addicted children and their parents in an effort to help them realize the danger of drugs. He indicated that he has encouraged other doctors not to get involved in the misconduct, which led to the loss of his license. He stated, "I could never do anything like this again." He told the Committee that the only places he could probably work were where nobody else would want to go. He said that any employment would probably be with some type of organization under supervision.

The overarching concern in all restoration cases is public protection. Education Law §6511 gives the Board of Regents discretionary authority to make the final decision regarding applications for the restoration of a license to practice as a physician in New York State. 8NYCRR §24.7(2) charges the Committee on the Professions (COP) with submitting a recommendation to the Board of Regents on restoration applications. Although not mandated in law or regulation, the Board of Regents has instituted a process whereby a Peer Committee first meets with an applicant for restoration and provides a recommendation to the COP. A former licensee petitioning for restoration has the significant burden of satisfying the Board of Regents that there is a compelling reason that licensure should be granted in the face of misconduct so serious that it resulted in the loss of licensure. There must be clear and convincing evidence that the petitioner is fit to practice safely, that the misconduct will not recur, and that the root causes of the misconduct have been addressed and satisfactorily dealt with by the petitioner. It is not the role of the COP to merely accept, without question, the arguments presented by the petitioner but to weigh and evaluate all of the evidence submitted and to render a recommendation based upon the entire record.

The COP finds that Dr. Bayme demonstrated that he is a caring individual with a strong desire to help those in need of medical care. Being a holocaust survivor has had a severe impact upon his life and he had to overcome many obstacles to become a physician. Dr. Bayme sought professional help from a psychiatrist during the period 1997 to 2001 who attested that he had treated Dr. Bayme for post-traumatic stress disorder, severe depression, and stress. While empathetic to Dr. Bayme's suffering and feelings, the COP must determine if he made a compelling case for the restoration of his license and whether the public would be placed in danger were his license restored. Dr. Bayme's misconduct occurred over a period of years and resulted in the Department of Health charging him with 908 specifications of professional misconduct. The COP finds that Dr. Bayme could not articulate the root causes of his misconduct and failed to demonstrate the potentially serious effects that his authorization of illegal prescriptions may have had upon the community. Without such an understanding, the COP was not convinced that he has made the necessary behavioral changes in his life to provide an adequate level of assurance that the public would not be placed in danger were his license restored. The COP notes that the court records reflect that Dr. Bayme admitted he was engaged in a conspiracy with the pharmacist whereby he would write prescriptions for controlled drugs that the pharmacist would later sell illegally. Further, the court records reflect that Dr. Bayme's attorney reassured the judge that Dr. Bayme would not seek restoration of his license. The COP concurs with the observation of the Peer Committee that Dr. Bayme's statements made in support of his restoration cannot be reconciled with those court records. Further, the COP finds that Dr. Bayme did not demonstrate that he is currently competent to practice medicine in New York State were his license restored. Consequently, the COP determined that Dr. Bayme failed to

present a compelling case that would warrant the restoration of his physician license at this time.

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

Johanna Duncan-Poitier, Chair

Joseph B. Porter

Frank Munoz



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

LLOYD G. BAYME

REPORT OF
THE PEER
COMMITTEE
CAL. NO. 19940

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

-----X
The applicant, LLOYD G. BAYME, was authorized to practice as
a physician in the State of New York by the New York State
Education Department through the issuance to him of license
number 087211 on or about December 19, 1962.

PRIOR DISCIPLINARY HISTORY

On October 27, 1997 the applicant executed an application to
surrender his license to practice medicine as a physician in the
State of New York. This surrender of licensure was in response
to the institution of disciplinary proceedings against the
applicant, charging him with 908 specifications of professional
misconduct, of which he pleaded no contest to 180 of those
specifications in full satisfaction of the charges.

The gravamen of these charges involved the issuance by the
applicant of prescriptions for controlled drugs without taking

adequate histories, performing adequate physical examinations and without adequate medical indication. . . This conduct occurred between May 1, 1994 and December 31, 1996, as revealed by an investigation conducted by the Bureau of Controlled Substances (BCS), which recovered 920 original triplicate prescriptions for controlled substances such as Percocet, Tuinal and Seconal, from a pharmacy located in the applicant's office building. An additional 3,000 prescriptions signed by the applicant were left at the pharmacy as well. Most of the prescriptions were presented by middle-aged Russian persons rather than the 60-75 year old group identified on the prescriptions. BCS investigators corroborated this through statements from patients who denied ever receiving the drugs identified on the prescriptions. Based upon these findings by BCS, the applicant agreed through his lawyer to surrender his medical license rather than proceed with a hearing by the Department of Health. The surrender of the applicant's license became effective on or about November 17, 1997.

In addition to the surrender of his license the applicant also faced criminal charges. In separate indictments filed in Supreme Court, Kings County, the applicant was charged under Indictment No. 7902-97 with the Criminal Sale of a Prescription for a Controlled Substance and Falsifying Business Records; under Indictment No. 7790-98 the applicant was charged with Conspiracy in the Second Degree for the Criminal Sale of a Prescription for a Controlled Substance, Falsifying Business Records and

LLOYD G. BAYME (19940)

Conspiracy. In satisfaction of these charges the applicant pleaded guilty on April 30, 1999 to Conspiracy in the 4th degree and Criminal Sale of a Prescription for a Controlled Substance, both felonies.

On June 18, 1999 the applicant was sentenced to 1 day in jail, 5 years probation, \$40,000 in fines and required to serve 1,820 hours of community service. Additionally, the applicant agreed to not seek the restoration of his license to practice medicine.

BACKGROUND INFORMATION

The written application, supporting papers provided by the applicant and papers resulting from the investigation conducted by the Office of Professional Discipline (OPD) were compiled by the prosecutor from OPD into a packet that was distributed to this Peer Committee in advance of its meeting and also provided to the applicant.

APPLICATION FOR RESTORATION

As part of this packet, in a petition dated February 5, 2001, the applicant applied for restoration of his license to practice medicine. The petition included information and attachments as referred to below.

The petition included a question asking whether the applicant has ever been named as a defendant in a professional liability lawsuit. The applicant responded affirmatively to being a defendant in six separate legal actions enumerated on an attachment as Cases #1 through 5 and Case #8 for various medical

malpractice allegations; one suit was dropped by the plaintiff, four were settled out of court and there was one in which the applicant states the jury found in his favor.

The petition then proceeds to a question asking whether the applicant has ever received counseling connected with the revocation or surrender of his license. The applicant responded affirmatively and attached a letter from a physician, Dr. Yehuda Nir, dated January 7, 2001 attesting that he had been treating the applicant since September of 1997 for post-traumatic stress disorder, severe depression and stress. The letter describes these conditions as being attributable to events the applicant witnessed as a child in Poland during the Holocaust, which then resurfaced with the events surrounding his criminal investigation and arrest on the instant charges. The letter describes the applicant as being understandably and severely traumatized by these events and now appears remorseful, humble and insightful in its aftermath. However, the treating physician did not offer any opinion or explanation of what motivated the applicant to commit these crimes nor did the physician provide any anecdotal evidence to illustrate the applicant's remorse.

The petition also included a section entitled Continuing Education Credits earned since surrender of the applicant's license. The applicant listed three courses taken between November 1998 and January 2001 totaling 18 credit hours; he also described attending four additional courses through July of 1997, which were completed prior to the surrender of his license. The

applicant also listed reviewing various medical and surgical manuals and textbooks and reviewing and replaying of audiotapes during routine office work, in the car and at home.

The petition next includes a section entitled Community Service, wherein the applicant listed the weekly time (3 days per week) he spent at the Jewish Board of Family and Children's Services since June of 1999 in fulfillment of, and conditional to, the terms of his criminal sentence. The applicant describes that activity as mainly office work, including canvassing, advising, and assisting at conferences and workshops and assisting the infirmed, addicts in recovery, and the bereaved. The applicant additionally lists assisting the elderly to religious services (2 hours per week since August of 2000) and informal lectures on medical issues at religious organizations (2 hours a month) since December of 1997.

The next section of the petition is entitled Professional Rehabilitation Activities. Here the applicant's response refers to the information he supplied under item (B)10 of the application as the counseling he received in connection with the surrender of his license, as the extent of any practice-related rehabilitation activities.

The last section of the petition is entitled Submission of Affidavits. The applicant attached a total of four notarized affidavits in support of the applicant's license restoration. The applicant also attached one letter of recommendation from the director of Jewish Community Services at the Jewish Board of

Family and Children's Services, Inc.

Investigation by OPD

Subsequent to the filing of this petition, OPD conducted an investigation for the purposes of this proceeding. Information from that investigation, including reports from the investigator and other documentation, was made a part of the packet for the proceeding which this panel received. Included in the information from that packet not previously referred to are case reports of the investigation for this restoration proceeding.

PEER COMMITTEE MEETING

On June 25, 2002 and June 28, 2002 this Peer Committee met to review the applicant's petition for restoration. At the hearings held on those dates the applicant submitted additional material for the panel's consideration, which were marked into the record as Petitioner's Exhibits "A" through "E", respectively. This material consisted of, among other things, the applicant's curriculum vitae, evidence of continuing medical education (CME), additional character reference letters and favorable evaluations of the applicant's performance while volunteering in the Army. The record was closed on August 28, 2002 with the receipt of further additional material submitted by the applicant. This material, marked as Petitioner's Exhibit "F", consisted of proof of CME taken by the applicant through the Cornell University Medical College and a Certificate of Relief from Disabilities issued by the State of New York. On the two hearing dates the applicant appeared in person and was

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represented by an attorney, Michael S. Kelton, Esq. The Department was represented by Francis K. Kenna, Esq.

The applicant's presentation to the panel began with the testimony of various character witnesses. The first to appear on his behalf was his wife, Helene Bayme. Mrs. Bayme related how she and her husband met and gave a background of their family relationship.

Mrs. Bayme testified how her husband viewed the practice of medicine as the "highest calling that anyone can have".

She described how the applicant suffered many trials as a boy. He survived three years of Russian winters while living in the woods because he was a refugee from the Nazi invasion of Poland. He also suffered terribly by the discovery of a tumor in his daughter when she was 15, and her subsequent surgery, which left her with certain physical deficits.

The loss of his license devastated him as well, causing him great shame, and the feeling that he betrayed his family, his profession and his community. She said that he has withdrawn from the world to a large degree and that the event caused him to move out of Brooklyn to Long Island after some 30 years of having lived there.

He is emotionally sustained by his extended family, which includes five children and a number of grandchildren living both here in the United States and in Israel.

Mrs. Bayme, who is a lawyer, did not know exactly what his conviction consisted of, but was "something to the effect that he

had written prescriptions that were not proper". Mrs. Bayme knew that the applicant was fined \$40,000 as part of his sentencing. She could not explain what caused his criminal behavior, but thought that it was a combination of factors which included his daughter's illness and his childhood traumas. It was not, she testified, a question of needing money, and she always knew him to be an upright man. He is seeking restoration not for financial reasons but for his sense of well-being.

She also described how a farm that they own in Freehold, New Jersey has been a solace to him, where he takes care of the sheep and repairs fences, although she said that the property was not a good investment.

The applicant was very affected by his daughter Sara's suffering a brain tumor at age 15 and blamed himself for not discovering it sooner by being more attentive to her symptoms. She said that the applicant felt that he had failed her and his family and that he has still not recovered from that to this day. A few years after this incident he decided to give up surgery in order to be more available for his family and moved his office to within several blocks of their home.

As an outgrowth of his daughter's illness he became affiliated with the Cerebral Palsy Association, which was across the street from his medical office, as a way to help those who were handicapped as he feared his daughter might one day become.

Mrs. Bayme denied that the applicant's motivation for his criminal acts were financial and that he often treated people

LLOYD G. BAYME (19940)

without knowing if they could pay him.

On cross-examination Mrs. Bayme was again asked her understanding of the applicant's conviction and the charges preferred against him. The applicant's wife answered that she never read the papers in his criminal case but understood it to involve written prescriptions that were not proper. She reiterated her belief that what he did was caused by a number of factors, including his childhood hardships and their daughter's illness, and that things somehow closed in on him.

The panel pursued the issue of why Mrs. Bayme, who was graduated from law school in 1980 and has been employed as a court attorney by New York State since 1986, expressed little interest in the particulars of her husband's legal case.

She stated that it was never discussed in detail due to the trauma and embarrassment of it. The extent of his relating the story to her was to express how sorry he was to bring shame on the family and the difficulties it caused.

Mrs. Bayme speculated that what he did was a delayed reaction to his Holocaust experiences, citing a newspaper account of other older Holocaust survivors who had similar delayed reactions. She was emphatic, though, that the applicant's misconduct would not be repeated as he has learned from it and has a better understanding of himself now.

She related how the applicant keeps busy through a number of activities, including, as previously mentioned, working on his farm in Freehold, New Jersey and being involved with his

grandchildren as well.

Although she is the sole support of her family in terms of income production, they do not struggle financially and he does not need to have his license restored to earn a salary.

Upon further questioning by Mr. Kenna, the applicant's wife told of their other assets, which included a shore house in Long Branch, New Jersey and a house in Great Neck, New York. She said they received about \$2.5 million for his Brooklyn properties which were sold when they moved.

The panel also questioned Mrs. Bayne about her understanding of what happened at the sentencing of the applicant, where he agreed not to reapply for his medical license. She believed that her husband concurred with the plea bargain involving the agreement not to reapply, but that his dedication to helping others and to the practice of medicine compelled him to seek reinstatement.

She does not see the applicant, if relicensed, getting involved in a private practice again but more as a part of a public health undertaking such as a clinic or the military in order to satisfy his civic-minded impulses. He has not sought paid employment since the surrender of his license.

The next to testify was Dr. Yehuda Nir, a psychiatrist whose specialty is post-traumatic stress disorder, with an emphasis on Holocaust survivors and their offspring. Dr. Nir is himself a Holocaust survivor. The applicant was referred to Dr. Nir after his criminal conviction, and treated him from approximately 1997

to 2001. He believes that the applicant sees himself as having a mission to help people who are suffering and that he was devastated by his loss of license and his resultant inability to help others.

In addition to their weekly sessions, Dr. Nir prescribed antidepressants for the applicant.

Dr. Nir described the applicant's current condition as "functioning, but still the pain of not being able to do anything good, to be a doctor... (it has) nothing to with making money or being famous... (it is) just a mission to save the world."

He did not believe that the applicant was motivated by greed with his criminal activity but that it was a way to "help people who needed help". Dr. Nir was even reluctant to term the applicant's conduct which led to his conviction as criminal, but saw it as an outgrowth of the applicant's desire to help others.

The doctor believed that a recurrence of this conduct would be extremely unlikely because the applicant has been "taught a lesson" and to do so again would mean an end to the applicant's ability to help others.

On cross-examination Dr. Nir said that his understanding of the applicant's criminal behavior was to write triplicate prescriptions under wrong names, but denied that the applicant did it to benefit financially.

Dr. Nir also responded to panel questions. In his letter to the panel which formed a part of the applicant's restoration packet, Dr. Nir implied that the applicant viewed his criminal

conduct in a different light.

Dr. Nir's elaboration on this was that the applicant's "idea was to try to help people and he accepts the fact that, obviously, it was a criminal activity, what he did, but his mission is still this. So the others see it as a kind of incorrect activity, and for him it was maybe incorrect, but important".

Dr. Nir believed that the applicant's remorse over having lost his license is primarily attributable to the world being deprived of his services. He also expressed the opinion to the panel that the applicant would suffer "major depression" and a "total dysfunctional existence if his application for restoration was denied. He also thought there might be a potential for suicide on the applicant's part. On redirect examination by the applicant's attorney, Dr. Nir amplified upon his remarks by saying that the applicant's remorse is not based upon a grandiose vision of his own skills but upon a sincere desire to help others.

The applicant then presented a number of character witnesses, whose testimony substantially reiterated their written letters of support as contained in the restoration packet. These witnesses were as follows: Rabbi Max Schreier, Burton S. Goldstein, Chava Aronoff and Shraga Aronoff.

The applicant next testified. He began his direct examination by expanding upon the testimony of Dr. Nir regarding his use of prescription medications. The applicant stated that he

LLOYD G. BAYME (19940)

is not currently on any medications and had not been so for over a year and a half at that point. The last medication prescribed by Dr. Nir was Prozac.

The applicant then reviewed his early childhood and personal history leading up to the time of the surrender of his license. He described how he was born in the then Polish city of Vilna in 1934. When the country was divided by Russia and Germany the city became part of Russia, and then later fell under German occupation, with his part of the city becoming a Jewish ghetto. When the ghetto was about to be forcibly evacuated to a concentration camp his parents and he were hidden by local townspeople. When that became subject to discovery they returned to the ghetto, which eventually they departed from to hide in the local woods to avoid deportation to a concentration camp.

They survived by begging and collecting whatever food was available. He lived in the woods from the ages of seven through nine, and at some point he witnessed the murder of his mother by the Nazis.

In 1944 the advancing Russian army liberated him and others in his group and so he came to live again with the farmer he had been hidden by previously. As the war ended the Russians then permitted people to move to an area of Germany near the Czech border that was once Polish territory and from there he moved again to a displaced persons camp in the American zone of Germany.

In 1949 he emigrated to the United States and settled in

Brooklyn. When he arrived he spoke no English, but mostly Yiddish and a bit of Polish and Russian. He also was introduced to the Hebrew language at that time.

Notwithstanding his lack of English language skills he graduated high school in one and a half years at about the age of 16. He then went to City College of New York and then transferred to the University of California at Los Angeles (UCLA). He always held some type of job while attending school.

His education was paid for with German government reparations and his parents' help. Although his father remarried after being liberated, the applicant was the only child of the family.

After his graduation from UCLA with a degree in zoology he went on to attend and complete medical school at the University of Heidelberg in Germany. Eventually he chose the field of general surgery and then went on to open a practice in Brooklyn, New York.

The applicant then proceeded to discuss his misconduct. He described it as having written prescriptions for controlled substances for people who did not want to have their own names on it. Although he conceded that he "must have known" that this practice was wrong, he testified that he could not "explain really why (he) did it. There was no reason for it."

He also admitted to, on several occasions, having written triplicate prescriptions after the fact for patients who presented themselves without prescriptions at the pharmacy which

rented space in the applicant's building. The applicant denied any connection with this pharmacy other than being its landlord. He acknowledged that these practices were wrong both legally and medically. He could not explain it other than that his office was very busy at the time and that he succumbed to those pressures in an unknowing way.

The applicant discounted financial worries as being the cause of his misconduct, citing both his income from his busy medical practice as well as an inheritance from his mother-in-law.

The applicant stated that he had pleaded guilty in the criminal matter and surrendered his medical license for the same reason, that is, to save the state any additional expenses from prolonged legal proceedings and to avoid the shame that would result to everyone involved, and not just himself.

With respect to the applicant's criminal plea, and his promise not to seek the restoration of his license, the applicant stated that the only time the issue arose was at the very last moment of sentencing and at that time he did not want to contradict his attorney.

The applicant denied having specific knowledge of the discussions between his defense attorney and the prosecutors in his case. Moreover, the applicant described himself as being mentally exhausted from the whole ordeal.

The applicant testified that his misconduct could never happen again because of his awareness that what he did was wrong.

As part of his sentencing, the applicant agreed to serve 1,820 hours of community service. He has to date rendered over 2,000 hours of such service, all with the Jewish Board of Family and Children's Services in Manhattan, where he performs office functions such as filing, photocopying, stuffing and mailing envelopes, and delivering interoffice mail in addition to other duties.

The applicant sees himself in public service if allowed to practice again, and in fact has contacted a program called Project USA, which sends doctors to remote areas to serve. He has also expressed interest in the organization Doctors Without Borders, a similar outreach group.

The applicant related his extensive background of serving in the United States military beginning in 1979 or so until the surrender of his license in 1997. In fact, his last period of extended service in the Army was from 1996 to 1997, a period of about 8 months, when he served as a physician in Europe during military hostilities in Yugoslavia. Although an investigation into his medical practice had already begun during this time, he testified that he was unaware that any criminal charges were imminent and did not know that an arrest warrant had been issued for him by the authorities in New York. This warrant resulted in his being detained and briefly incarcerated when he returned to the States from Europe after his period of Army service.

On cross-examination, the applicant described his actions as an error in judgment. He explained why he wrote the fraudulent

prescriptions which led to the surrender of his license by saying variously that it was anything from "somebody being very forceful, someone threatening...someone genuinely trying to convince me...that it would be to his detriment if (their name) appeared on the bottle."

The applicant acknowledged now in his testimony that what he did in writing those prescriptions was wrong and that he simply should have said no or turned people away.

The applicant was then questioned about remarks that he made in his written statement which was a part of his restoration packet. He wrote about how, while being investigated by New York State regarding the prescriptions, there was full cooperation on his part despite what he termed a "very aggressive...and high-handed approach by the government, "as if mass murder was involved".

Applicant testified that this did not represent his current thinking, but he did emphasize that he "didn't murder anybody...don't treat me like a murderer."

Applicant also stated that he is a different person now in that he is more focused on what is proper and would be less inclined to give in to patients who might be faking their pain.

Applicant refuted his psychiatrist's contention that he could become suicidal if he was not relicensed and added that he is psychologically healthy.

Applicant also reasserted that he is not seeking relicensure for financial reasons and that he has a number of sources of

income, including his 401(k) account and some properties in New Jersey that provide rental monies.

The prosecutor in his closing remarks opposed the restoration of the applicant's license, and focused primarily on the issue of the applicant's promise at his sentencing hearing, made through his attorney, not to seek the restoration of his medical license, and what role that promise may have played in the judge's decision not to sentence him to jail. He asked the panel to consider how that relates to the applicant's testimony now that he was not involved in that decision. Mr. Kenna also urged the panel to review the sentencing minutes of the criminal case as to the state's arguments about the nature of the crime, the harm to society that resulted and why the state wanted a jail sentence.

The applicant's counsel urged this panel to grant a favorable decision for several reasons. The applicant is in good health, with the ability to practice for many years and has only one desire, which is to contribute to others who might need his help.

The applicant has satisfactorily addressed the issues of remorse and rehabilitation in that he is genuinely regretful for what he has done and taken responsibility for his actions. He has complied with the all the terms of his probation and there is no chance that he would do anything again that would bring discredit to himself or his profession. He is willing to accept whatever restrictions this panel might feel necessary if it were

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to grant relicensure. For these reasons the applicant deserves to be readmitted to the medical community.

The Department of Health, in a letter from Dennis J. Graziano, Director of the Office of Professional Medical Conduct, opposed the applicant's petition for restoration.

RECOMMENDATION

In evaluating the applicant's petition for restoration, we apply the generally accepted criteria of remorse, rehabilitation and re-education. Additionally, we are charged with the responsibility of safekeeping the public's health, safety and welfare.

We also note in reviewing this petition that the legal burden is on the applicant to submit evidence such as would "compel" the exercise of discretion in his favor. Matter of Jablon v. Board of Regents of Univ. of State of N.Y., 271 App. Div. 369, 373, 66 N.Y.S.2d 340, 73 N.E. 2d 904. Taking the above into consideration, we unanimously conclude that the applicant has not fulfilled these requirements and that therefore his petition for restoration be denied.

At the outset, we note with empathy the terrible trials that the applicant suffered as a youth and the enormous obstacles he overcame to become a physician. These cannot be minimized. However, this should not let us cloud our judgment to the fact that the applicant does not deserve relicensure for a number of reasons.

On several issues the applicant, and those of his witnesses,

failed to evince credibility. The first relates to the promise made at his criminal sentencing not to seek the restoration of his license. It is difficult to believe that the applicant, a highly intelligent and motivated person, was unaware of his attorney's agreement to this term as part of his plea bargain, or that he could not object to it once he learned of it. Similarly, the applicant's wife, who is an attorney, also denied any prior knowledge of this agreement or condition before it was announced in open court. In fact, none of the applicant's witnesses could recall the issue of the applicant's not seeking relicensure, the sum of which sorely tests our credulity. On this point we are inclined to agree with Mr. Kenna that the applicant's making of this promise in the first instance (or at least his attorney's making of it), was indeed designed to avoid any jail time.

Additionally, we have a hard time reconciling the applicant's various statements regarding the pharmacist and pharmacy who were his co-defendants at his criminal trial, and which rented space in the applicant's building. Before this panel the applicant testified that their relationship was only one of landlord and tenant. However, in the plea minutes from the applicant's criminal proceeding, the applicant admitted in court that he was engaged in a conspiracy with the pharmacist wherein the applicant would write prescriptions for controlled drugs that the pharmacist would later sell illegally. Again, it is hard not to draw the inference that the applicant has been less than candid in his testimony before us.

Furthermore, the applicant seems to lack insight into the cause of his behavior ("don't know, can't explain it") and fails to appreciate the seriousness of his misconduct and the real and potential hazards it created for patients and other individuals in his community.

The applicant's expressions of remorse, as stated in his petition and in his testimony, seems directed more towards the black eye he caused his profession and the pain it inflicted upon his family and friends, than to the society as a whole. He still refers to his misconduct as an "error in judgment". To continue to characterize it as such is a gross understatement, as the Department of Health noted in its letter opposing the applicant's restoration.

The applicant's judgment is somewhat questionable as well. While under investigation by New York State, the applicant left his practice and the country to serve as a volunteer in the military for an extended period of time. While his service to the Army was admirable, his decision to do so under the circumstances present at that time shows poor decision-making.

With respect to the issue of rehabilitation, the applicant did seek counseling for several years with Dr. Yehuda Nir, who testified before us, although he discontinued therapy in 2001. And aside from the court-mandated community service which he rendered to the Jewish Board of Family and Children's Services, which he satisfactorily completed, the applicant has not

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significantly given of his time apart from that.

Again, we are not unmindful of the trials the applicant has suffered in life. And we are not discounting the moving testimonials given by the applicant's witnesses as to his devotion to family and friends, the service of others, and the medical profession.

However, this is insufficient when weighed against the serious questions we have regarding the applicant's credibility and seeming lack of insight into the root causes of his misconduct.

Therefore, we unanimously recommend that the applicant's petition for the restoration of his license to practice medicine in the State of New York be denied.

Respectfully submitted,

Seymour Cohen, M.D.,
Chairperson

Rafael Lopez, M.D.

David Harris, M.D.

REDACTED

~~Chairperson~~

7/16/03
Dated



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July 18, 2003

Lloyd G. Bayme, M.D.
REDACTED

Re: Application of Lloyd G.
Bayme for the restoration
of his license to practice
as a physician in the
State of New York

Dear Dr. Bayme:

Enclosed please find the report of the Peer Subcommittee of the New York State Board for Medicine which considered your application for restoration of licensure.

A copy of the report is being sent to the Committee on the Professions in Albany which is now required to review the matter before final consideration by the Board of Regents.

You will be notified by the Committee on the Professions as to when it will be reviewing this matter. Any questions you may have on the nature of that Committee's proceedings can be directed to the Committee after you receive its notice of when it will review this matter.

Very truly yours,

REDACTED

Howard J. Goodman
Senior Attorney

HJG:vf

Enc.

cc: Michael S. Kelton
Francis K. Kenna, Esq.
Nina Gottlieb, Esq.

CERTIFIED MAIL - RRR
REGULAR MAIL