

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

OFFICE OF PROFESSIONAL DISCIPLINE
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5802

April 19, 1996

Frank Paiano, RPA
6 Harbor Hill Road
Glen Cove, New York 11542


Re: Application for Restoration

Dear Mr. Paiano:

Enclosed please find the Commissioner's Order regarding Case No. 96-1-23R which is in reference to Calendar No. 0015008. This order and any decision contained therein goes into effect five (5) days after the date of this letter.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations

By: 

Gustave Martine
Supervisor

The University of the State of New York
Education Department



IN THE MATTER

of the


Application of FRANK PAIANO
for restoration of his registration to practice
as a physician's assistant in the State of New York

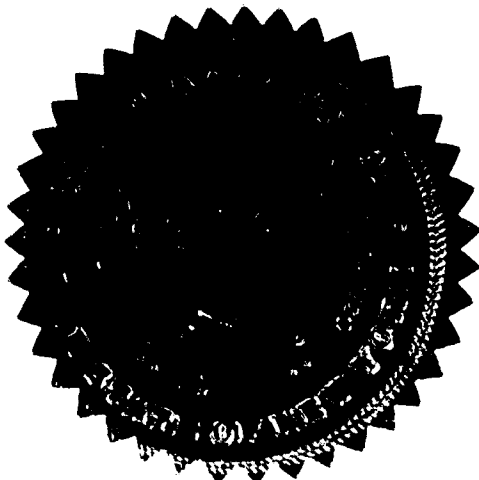
Case No. 96-1-23R

It appearing that the registration of FRANK PAIANO, 6 Harbor Hill Road, Glen Cove, New York 11542, to practice as a physician's assistant in the State of New York, having been revoked by action of the Board of Regents effective March 22, 1991, and he having petitioned the Board of Regents for restoration of said registration, and the Regents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 March 13, 1996, it is hereby

ORDERED that the petition for restoration of Registration No. 11542, authorizing FRANK PAIANO to practice as a physician's assistant in the State of New York, is denied, but that the execution of the revocation of said registration is stayed, and said FRANK PAIANO is placed on probation for a period of two years under the terms and conditions specified in the report of the Committee on the Professions.

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 29 day of March, 1996.


Commissioner of Education



Case No. 96-1-23R

It appearing that the registration of FRANK PAIANO, 6 Harbor Hill Road, Glen Cove, New York 11542, to practice as a physician's assistant in the State of New York, having been revoked by action of the Board of Regents effective March 22, 1991, and he having petitioned the Board of Regents for restoration of said registration, 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 March 13, 1996 it was

VOTED that the petition for restoration of Registration No. 11542, authorizing FRANK PAIANO to practice as a physician's assistant in the State of New York, be denied, but that the execution of the revocation of said registration be stayed, and that said FRANK PAIANO be placed on probation for a period of two years under terms and conditions specified in the report of the Committee on the Professions.

96-1-23R
January 3, 1996

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

Report of the Committee on the Professions
Application for Restoration of
Registered Physician Assistant License

Re: **Frank Paiano**

Attorney: William L. Wood

Frank Paiano, 6 Harbor Hill Road, Glen Cove, New York 11542, petitioned for restoration of his registered physician assistant license. The chronology of events is as follows:

- 06/20/80 Issued license number 001387 to practice as a registered physician assistant in New York State.
- 05/08/86 Convicted of violating 18 U.S.C., Section 1341 (mail fraud). (See "Disciplinary History.")
- 10/18/90 Regents Review Committee recommended that license be revoked.
- 11/15/90 Board of Regents voted revocation.
- 12/12/90 Commissioner's Order effective.
- 12/18/90 Temporary Restraining Order granted by Appellate Division of the Supreme Court.
- 03/22/91 Stay denied, Temporary Restraining Order vacated.
- 03/22/91 Revocation effective.
- 11/06/92 Petition for restoration submitted.
- 08/19/94 Peer Panel restoration review.
- 06/15/95 Recommendation of Peer Review Panel. (See "Recommendation of the Peer Review Panel.")
- 01/03/96 Report and recommendation of Committee on the Professions. (See "Recommendation of the Committee on the Professions.")

Disciplinary History. (See attached report of the Regents Review Committee.) On May 8, 1986, Mr. Paiano was convicted in the United States District Court for the Southern District of New York of violating 18 U.S. C., Section 1341 (mail fraud) in that he

devised and intended to devise a scheme to defraud the Commonwealth of Massachusetts, to obtain fraudulently a license to practice medicine, and attempting to do so, did cause to be placed in the mail documents pertaining to his application for a medical license.

In August 1990, the Department of Health charged Mr. Paiano with professional misconduct in that he had been convicted of committing an act constituting a crime under Federal Law. On October 18, 1990, the Regents Review Committee (Griffith, Bolin, Picariello) recommended that Mr. Paiano's license to practice as registered physician assistant be revoked. On November 15, 1990, the Board of Regents voted revocation. The Commissioner's Order became effective on December 12, 1990. On December 18, 1990, Mr. Paiano instituted an Article 78 proceeding to contest the action of the Regents and obtained a Temporary Restraining Order. On March 22, 1991, the Temporary Restraining Order was vacated, and the revocation became effective. The Appellate Division, Third Department, of the New York State Supreme Court denied Mr. Paiano's appeal.

Recommendation of the Peer Review Panel. (See attached report of the Peer Review Panel.) The Peer Review Panel (Gonzalez, Wu, Conner) met on August 19, 1994. In its report dated June 15, 1995, the Panel recommended that the revocation of Mr. Paiano's license be stayed, and that he be placed on probation for two years under specified terms and conditions.

Recommendation of the Committee on the Professions. On January 3, 1996, Frank Paiano met with the Committee on the Professions (Szetela, Porter, Holcomb) regarding his petition for the restoration of his license as a physician assistant in New York. Mr. Paiano was accompanied by his attorney, Mr. Scher and Mrs. Paiano was also present as an observer.

Mr. Paiano opened the meeting by explaining how he had lost his license as a physician assistant. He explained that he had attended St. John's University in the late 1970's and then a physician assistant educational program at Bailey Seton College. He subsequently was licensed as a physician assistant in New York and applied to medical school in Tampico, Mexico. He completed one year of medical school in Tampico and heard of the medical school Centro De Estudios Tecnicos (CETEC) in the Dominican Republic which offered to give him advance standing based on his physician assistant licensure and his year of school at Tampico. He explained that a representative of CETEC also told him that he would not be required to do a fifth pathway year back in the United States and that his clinical rotations as part of medical school would be provided for through CETEC. Mr. Paiano stated that he enrolled in CETEC and did most of his clerkships in St. Louis, Missouri. Mr. Paiano explained that after taking his final examinations and applying for graduation, he was advised by

Mr. De Mesones, his advisor at CETEC, that his preprofessional college transcripts were missing from the files. Mr. De Mesones took a transcript from another student, applied white out and typed in Mr. Paiano's name on the other students preprofessional transcript which was subsequently submitted as Mr. Paiano's record.

Final transcripts from CETEC showed that all of his courses were from the Universidad CETEC. None of the transfer courses were documented on the CETEC transcripts. In order to start his PGY-1 year at Worcester City Hospital in Worcester, Massachusetts, he submitted the CETEC transcript with his application for temporary licensure in the State of Massachusetts. Mr. Paiano stated that after his first year of internship in Massachusetts, he was made aware of an opportunity to return to St. Luke's Hospital in St. Louis, Missouri. He preferred the medical school opportunities at St. Luke's Hospital and he transferred in January 1984. He continued there in his postgraduate training until June 5, 1984. At that time he stated he was advised of an investigation into his credentials regarding medical school and the Missouri State Board subsequently temporarily suspended his license.

Mr. Paiano explained that since the investigation involved the U. S. Mail Service in submitting the transcript which had been forged, that he was told by U. S. Postal Inspectors that he would be indicted on eight counts of mail fraud. Mr. Paiano stated that the prosecuting authorities said they would recommend, and he could probably expect, to be sentenced to probation and community service. After reviewing all of the circumstances Mr. Paiano agreed to accept a plea bargain on one count of mail fraud. Mr. Paiano stated that upon his plea he was sentenced to one year and one day at Allenwood Federal Prison. He explained that he served seven months incarceration and was let out early on parole for good behavior during that seven month period. Subsequent to his incarceration Mr. Paiano stated that he worked for a computer company and did some scuba diving work. Mr. Paiano stated that he then desired to return to the profession of medicine and began practicing on his physician assistant license working in a position in an ophthalmology practice in the South Bronx. He told the Committee that he worked there until his license was revoked on March 22, 1991. After the revocation of his license Mr. Paiano returned to the computer business to continue earning a living.

Mr. Paiano said that initially upon his conviction and incarceration that he felt it was wrong that he was sent to prison. He was very angry at that point in his life. He now realizes the importance of the truthfulness and veracity of all documentation. He stated that he recognized that the manner of pursuing a particular goal (such as becoming a physician) is as important as the goal itself.

Mr. Paiano stated that he was only 22 years old when the incident involving the forged transcript occurred and that he was naive at that point in his life. He told the Committee that the individual who let this happen in 1983 is not the same individual before them today.

Mr. Paiano stated that he now works for Manhasset Ophthalmology which also employs one full time physician and one part time physician. There are currently no physician assistants working there. Mr. Paiano said that he had taken a course to become a certified ophthalmic assistant and if his license were returned he was interested in continuing to work at Manhasset Ophthalmology but as a physician assistant.

Mr. Paiano also discussed the recommendation of the Peer Review Panel with the Committee on the Professions. One of the recommendations in the Peer Review Panel Report was that Mr. Paiano take the NPACE licensing examination for physician assistants.

After a complete review of the record and its personal meeting with the petitioner, the Committee on the Professions concurred with the portion of the Peer Review Panel's recommendation that states:

"We believe the license to practice medicine as a physician assistant is an important public trust. In view of the seriousness of applicant's past misconduct, we believe that requiring applicant to take the NPACE, to practice under a new grant of licensure under the supervision of a physician and to have quarterly reports of his progress submitted to the Office of Professional Medical Conduct are necessary to assure us of his awareness of the importance of following proper procedures and of the importance of the public trust bestowed by the license."

During the course of the meeting with the Committee on the Professions, Mr. Paiano advised that he took the NPACE examination in October 1995 and was notified that he passed just before the meeting with the Committee on the Professions. However, the Committee believes that the petitioner should serve a minimum of one year probation upon the restoration of his license. Accordingly, the Committee voted unanimously to support that portion of the Peer Panel recommendation to the Board of Regents that the revocation of Mr. Paiano's license as a physician assistant in New York be stayed for a period of two years during which Mr. Paiano may practice on probation. However, the Committee recommends the attached terms of probation (Exhibit A) which provide that after production of documentation that he has passed the NPACE examination and after the completion of one year of probation, petitioner may apply to the Director of the Office of Professional Medical Conduct for satisfaction of the required

period of probation. Such application shall not be automatically granted but shall be at the discretion of the Director of the Office of Professional Medical Conduct, as stated in the attached terms of probation (Exhibit A).

The Committee on the Professions also unanimously recommends to the Board of Regents that upon the successful completion of the probation either by term number six (6) of probation or by the successful completion of two years of monitored practice, Mr. Paiano's license as a physician assistant shall be restored.

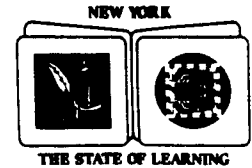
EXHIBIT "A"

TERMS OF PROBATION
OF THE COMMITTEE ON THE PROFESSIONS

FRANK PAIANO

1. That applicant shall make quarterly visits to an employee of and selected by the Office of Professional Medical Conduct of the New York State Department of Health, unless said employee agrees otherwise as to said visits, for the purpose of determining whether applicant is in compliance with the following:
 - a. That applicant, during the period of probation, shall be in compliance with the standards of conduct prescribed by the law governing applicant's profession;
 - b. That applicant shall submit written notification to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, Empire State Plaza, Albany, New York 12234 of any employment and/or practice, applicant's residence, telephone number, or mailing address, and of any change in applicant's employment, practice, residence, telephone number, or mailing address within or without the State of New York;
 - c. That applicant shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that applicant has paid all registration fees due and owing to the NYSED and applicant shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by applicant to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, no later than the first three months of the period of probation; and
 - d. That applicant shall submit written proof to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) applicant is currently registered with the NYSED, unless applicant submits written proof to the New York State Department of Health, that applicant has 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; said proof of the above to be submitted no later than the first two months of the period of probation;

2. If the Director of the Office of Professional Medical Conduct determines that applicant may have violated probation, the Department of Health may initiate a violation of probation proceeding and/or such other proceedings pursuant to the Public Health Law, Education Law, and/or Rules of the Board of Regents;
3. That applicant shall provide documentation to the Director of the Office of Professional Medical Conduct verifying that in October 1995 he successfully completed the National Physician Assistants Certifying Examination;
4. That applicant shall only practice as a physician assistant in a supervised setting under the supervision of a board certified physician, said supervising physician to be selected by applicant and previously approved, in writing, by the Director of the Office of Professional Medical Conduct;
5. That the supervising physician shall submit quarterly reports regarding the quality of applicant's medical practice certifying applicant's compliance, or detailing his failure to comply, with each of the terms of probation; and
6. That, upon compliance with term number three (3) above, and after one (1) year of probation, applicant may apply to the Director of the Office of Professional Medical Conduct for discharge from probation.



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

OFFICE OF PROFESSIONAL DISCIPLINE
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5802

December 7, 1990

Frank Paiano, Physician's Assistant
159 Allen Avenue
Oceanside, N.Y. 11572

Re: License No. 001387

Dear Mr. Paiano:

Enclosed please find Commissioner's Order No. 11233. This Order and the penalty contained therein goes into effect five (5) days after the date of this letter.

If the penalty imposed by the Order in your case is a revocation or a surrender of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. Your penalty goes into effect five (5) days after the date of this letter even if you fail to meet the time requirement of delivering your license and registration to this Department.

You may, pursuant to Rule 24.7 (b) of the Rules of the Board of Regents, a copy of which is attached, apply for restoration of your license after one year has elapsed from the effective date of the Order and the penalty; but said application is not granted automatically.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations

By:

GUSTAVE MARTINE
Supervisor

RECEIVED

DEC 11 1990

Office of Professional
Medical Conduct

DHJ/GM/er

CERTIFIED MAIL - RRR

cc: Joseph P. Minasi, Esq.
66 Gateway
Rockville Centre, N.Y. 11570

**REPORT OF THE
REGENTS REVIEW COMMITTEE**

FRANK PAIANO

CALENDAR NO. 11233



The University of the State of New York

IN THE MATTER

of the

Disciplinary Proceeding

against

FRANK PAIANO

No. 11233

who is currently registered to practice as a physician's assistant in the State of New York.

REPORT OF THE REGENTS REVIEW COMMITTEE

FRANK PAIANO, hereinafter referred to as respondent, was given due notice of this proceeding and informed that he could appear and be represented by an attorney.

On September 17, 1990, the scheduled date of our hearing, respondent appeared before us in person and was represented by his attorney, Joseph P. Minasi, Esq. Claudia M. Bloch, Esq., represented the Department of Health.

Respondent's request for an adjournment was denied.

Petitioner's objection to the submission by respondent of certain documents was overruled, to the extent of the four Resident Evaluations. Respondent withdrew the two foreign medical graduate examinations also initially objected to by petitioner. Consequently respondent's four Resident Evaluations were admitted

FRANK PAIANO (11233)

and made part of the record of Respondent's Exhibit "A".

Petitioner's written recommendation as to the penalty to be imposed, should respondent be found guilty, was revocation.

Respondent's written recommendation as to the penalty to be imposed, should respondent be found guilty, was none.

We have reviewed the record in this matter including respondent's Exhibit "A" to the extent of the affidavit of Dr. Gregory P. Genova, the letter of Dr. George W. Smith, respondent's four Resident Evaluations and respondent's three certificates; and our unanimous findings of fact, determination as to guilt, and recommendation as to the penalty to be imposed follow:

FINDINGS OF FACT

1. Respondent was registered to practice as a physician's assistant in this State by the New York State Education Department.
2. Respondent was convicted of committing an act constituting a federal crime, as set forth in the statement of charges and the record herein.

DETERMINATION AS TO GUILT

The charge, annexed hereto, made a part hereof, and marked as Exhibit "A", has been proven by a preponderance of the evidence and respondent is guilty thereof.

**RECOMMENDATION AS TO THE
PENALTY TO BE IMPOSED**

Respondent's registration to practice as a physician's

FRANK PAIANO (11233)

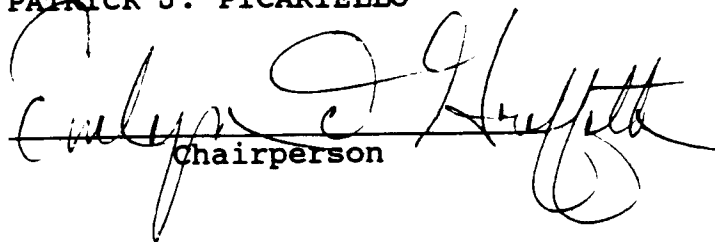
assistant in the State of New York be revoked upon the charge of which respondent has been found guilty.

Respectfully submitted,

EMLYN I. GRIFFITH

JANE M. BOLIN

PATRICK J. PICARIELLO


Chairperson

Dated: 10/18/90

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

-----X
IN THE MATTER : STATEMENT
OF : OF
FRANK PAIANO, P.A. : CHARGES
-----X

FRANK PAIANO, P.A., the Respondent, was authorized to practice as a physician's assistant in New York State on June 20, 1980 by the issuance of license number 001387 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice as a physician's assistant for the period January 1, 1990 through December 31, 1992 at 159 Allen Avenue, Oceanside, New York 11572.

SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6509(5)(a)(ii) (McKinney 1985) in that he has been convicted of committing an act constituting a crime under Federal law, specifically:

On May 8, 1986, Respondent was convicted in the United States District Court for the Southern District of New York of violating 18 U.S.C., Section 1341 (mail fraud) in that he

devised and intended to devise a scheme to defraud the Commonwealth of Massachusetts, to obtain fraudulently a license to practice medicine, and attempting to do so, did cause to be placed in the mail documents pertaining to his application for a medical licensure.

DATED: New York, New York

5/1/90

Chris Stern Hyman

Chris Stern Hyman
Counsel
Bureau of Professional
Medical Conduct

**ORDER OF THE COMMISSIONER OF
EDUCATION OF THE STATE OF NEW YORK**

FRANK PAIANO

CALENDAR NO. 11233



The University of the State of New York

IN THE MATTER

OF

FRANK PAIANO
(Physician's Assistant)

**DUPLICATE
ORIGINAL
VOTE AND ORDER
NO. 11233**

Upon the report of the Regents Review Committee, a copy of which is made a part hereof, the record herein, under Calendar No. 11233, and in accordance with the provisions of Title VIII of the Education Law, it was

VOTED (November 16, 1990): That the record herein be accepted; that the findings of fact, determination as to guilt, and recommendation as to the penalty to be imposed rendered by the Regents Review Committee in the matter of FRANK PAIANO, respondent, be accepted; that respondent is guilty of the charge by a preponderance of the evidence; that respondent's registration to practice as a physician's assistant in the State of New York be revoked upon the charge of which respondent has been found guilty; and that the Commissioner of Education be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote;

and it is

ORDERED: That, pursuant to the above vote of the Board of Regents, said vote and the provisions thereof are hereby adopted and **SO ORDERED**, and it is further

ORDERED that this order shall take effect as of the date of the personal service of this order upon the respondent or five days after mailing by certified mail.

FRANK PAIANO (11233)

IN WITNESS WHEREOF, I, Thomas Sobol,
Commissioner of Education of the State of
New York, for and on behalf of the State
Education Department and the Board of
Regents, do hereunto set my hand and affix
the seal of the State Education Department,
at the City of Albany, this 28th day of

November, 1990.

Thomas Sobol

Commissioner of Education