

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12230

OFFICE OF PROFESSIONAL DISCIPLINE, A.V. ZOGG BLDG., 800 FOURTH STREET, RM. 317, LIVERPOOL, NEW YORK 13088

RECEIVED

JAN 17 1997

OFFICE OF PROFESSIONAL  
MEDICAL CONDUCT

January 8, 1997

Eliezer Seguerra, Physician  
5 Dianas Court  
Dix Hills, New York 11746

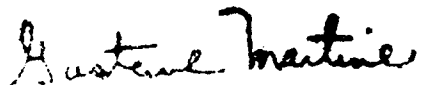
Re: Application for Restoration

Dear Dr. Suguerra:

Enclosed please find the Commissioner's Order regarding Case No. 96-134-60R which is in reference to Calendar No. 0014524. 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

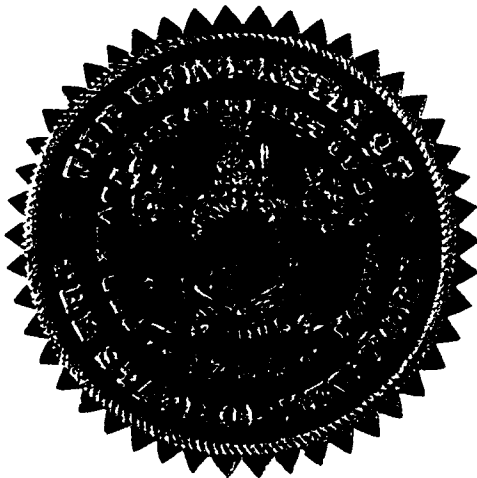
of the

Application of ELIEZER SEGUERRA  
for restoration of his license to practice  
as a physician in the State of New York

Case No. 96-134-60R

It appearing that the license of ELIEZER SEGUERRA, 5 Dienes Court, Dix Hills, New York 11746 to practice as a physician in the State of New York, having been revoked by action of the Board of Regents on May 24, 1991, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition, and having agreed with and accepted the recommendations of the Peer Review Panel and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on November 8, 1996, it is hereby

ORDERED that the petition for restoration of License No. 153537, authorizing ELIEZER SEGUERRA 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 *4th* day of December, 1996.

*Richard P. Mills*  
Commissioner of Education

Case No. 96-134-60R

It appearing that the license of ELIEZER SEGUERRA, 5 Dianas Court, Dix Hills, New York 11746, having been revoked by action of the Board of Regents on May 24, 1991, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition, and having agreed with and accepted the recommendations of the Peer Review Panel and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on November 8, 1996 it was

VOTED that the petition for restoration of License No. 153537, authorizing ELIEZER SEGUERRA to practice as a physician in the State of New York, be denied.

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

Report of the Committee on the Professions  
Application for Restoration of Medical License

Re: **Eliezer M. Seguerra**

Not represented by counsel

Eliezer M. Seguerra, 5 Dianas Court, Dix Hills, New York 11746, petitioned for restoration of his medical license. The chronology of events is as follows:

- 03/11/83 Issued license number 153537 to practice medicine in New York State.
- 06/29/89 Charged with professional misconduct by Department of Health. (See "Disciplinary History.")
- 05/06/91 Regents Review Committee recommended that license be revoked.
- 05/24/91 Board of Regents voted revocation.
- 06/10/91 Commissioner's Order effective.
- 01/15/93 Petition for restoration submitted.
- 03/10/95 Peer Panel restoration review.
- 05/05/95 Peer Panel restoration review continued.
- 02/29/96 Report and recommendation of Peer Review Panel. (See "Recommendation of the Peer Review Panel.")
- 08/14/96 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 June 29, 1989, the Department of Health charged Dr. Seguerra with nine specifications of professional misconduct. Dr. Seguerra was charged with committing unprofessional conduct in that he wilfully abused eight patients by engaging in physical touching of a sexual nature with each of them, and in that his conduct in the practice of his profession evidenced moral unfitness to practice the medical profession.

On November 1, 1990, the Hearing Committee (Shamberger, Donoghue, Price) of the State Board for Professional Medical Conduct found Dr. Seguerra guilty of the charges and recommended that his license be revoked. On December 7, 1990, the Commissioner of Health recommended that the Findings of Fact, Conclusions, and Recommendation of the Hearing Committee be accepted. On May 6, 1991, the Regents Review Committee (Linton, Black, Wachtel) recommended that Dr. Seguerra's license be revoked. On May 24, 1991, the Board of Regents voted to revoke Dr. Seguerra's medical license. The Commissioner's Order became effective on June 10, 1991.

Recommendation of the Peer Review Panel. (See attached report of the Peer Review Panel.) The Peer Review Panel (Iraj, Lee, Santiago) met on March 10, 1995 and on May 5, 1995. In its report dated February 29, 1996, the Panel recommended that Dr. Seguerra's petition for restoration of his medical license be denied.

Recommendation of the Committee on the Professions. On August 14, 1996, the Committee on the Professions (Sheldon, Muñoz, Porter) met with Dr. Eliezer Seguerra to consider his petition for the restoration of his license as a physician in New York State. Dr. Seguerra appeared personally but was not represented by an attorney.

Dr. Seguerra opened the meeting by stating that sometime in May 1990 he went voluntarily to Dr. Loo, an expert psychiatrist on Long Island, for an evaluation and possible treatment, if needed. Dr. Seguerra stated that Dr. Loo "found no psycho-sexual problem and that his problems were more like a cultural adjustment." Dr. Seguerra stated that he continued seeing Dr. Loo from May 1990 to July 1991; however, sometime around March or February 1991 Dr. Loo was called to service in the Gulf War, and Dr. Seguerra saw Dr. Molitalor in Western Suffolk County who had taken over Dr. Loo's case load. He explained that he continued to see Dr. Molitalor for about a month and that Dr. Molitalor said that there was nothing wrong with him. He concluded his explanation by saying that in July 1991 Dr. Loo told him that he did not need any further treatment.

Dr. Seguerra then explained that after the revocation of his license he went to the Medical Society of New York for a second opinion. He said that he was advised to go to the Golden Valley Health Center in Minnesota for a psycho-sexual evaluation. He stated: he paid \$6,500 for a five-day evaluation; he had difficulty raising the money; he tried to borrow from friends; and he still could not raise the money required. Dr. Seguerra then explained that his sister in Florida called him saying that she had borrowed the money for him to go and that on September 8, 1991 he went to the Golden Valley Psychiatric Center and was admitted as an

inpatient. Dr. Seguerra said he completed his five-day stay of testing and evaluation and on the fifth day he met in Dr. Stephen Barton's office with five members of the Evaluation Team who stated that there was no sign of a psycho-sexual problem and that his difficulties were due to the following:

- (1) Cultural adjustment deficits;
- (2) A problem with verbal English communication; and
- (3) His lack of culturally specific interpersonal skills.

He also stated the Team prepared recommendations for him to follow; these included attending conferences regarding doctor-patient boundaries, meeting with other physicians in the United States who were of Filipino background, and continuing his treatment.

The Committee asked Dr. Seguerra to explain the circumstances which resulted in the loss of his license. Dr. Seguerra explained that one patient he saw in the Emergency Room at Franklin General had a brother who worked as an aide in the Emergency Room. This patient complained of gastric pain. Dr. Seguerra said he asked her to give a personal history and he examined her with gentle palpation and percussion. He stated this was his standard method of evaluating patients ever since he had worked in a rural health unit in his town in the Philippines. Dr. Seguerra said he does a good physical examination first in order to get an idea about the patient's condition and needs. Dr. Seguerra said that this patient asked if he would do a pelvic examination, and he stated that he could not because she was menstruating. He called the ob-gyn resident who advised that she get a pelvic sonogram and follow up with her private physician. Dr. Seguerra explained that when the patient and her brother were leaving, at the Emergency Room door, they asked him, as a favor, to give her a prescription for a diet medication because she was very overweight. He prescribed a one month supply and they left. He stated that one week later she kept calling the Emergency Room, asking for him, stating that she had lost her prescription, and asking if she could have another. He told her that she would have to go to her private physician. Dr. Seguerra stated that from that time on he was told by co-workers at the hospital to be careful of the patient's brother.

When asked if he did anything wrong in this case, Dr. Seguerra replied that he did not. The Committee also inquired if he had done anything wrong with any of the other seven patients involved. Dr. Seguerra replied that he did not and that he never had any malicious thoughts in his mind. He stated that during the years he worked there he had received gifts from patients at Christmas time. He asserted that he was a good clinician. When asked why he thought his license was taken away, Dr. Seguerra explained that he believed that he did not explain properly to these patients what he was doing. In addition, he said that as an experienced physician

he was given the worst cases and he had too many patients to treat and not enough time. When asked if he thought the charges were brought against him as a result of cultural or linguistic reasons as stated in the record, he agreed this was his viewpoint.

The Committee pointed out that since Dr. Seguerra had come to the United States in 1976 he had a sufficient number of years to adjust to this culture prior to the occurrence of the incidents at issue. The Committee asked whether the petitioner had not been able to pick up adequate cultural cues during that period of time so that his behavior would be perceived appropriately. Dr. Seguerra stated that he had very little time for social interaction, that he went to work, went home, and then went back to work again, spending almost all of his time working. When asked if he didn't have a chance to observe some other physicians and their patients, he stated that he believed what he was doing was the right thing.

The Committee asked Dr. Seguerra his opinion about certain assertions in the record that there are differences between the practice of medicine in the Philippines and United States. Dr. Seguerra stated that he graduated from medical school in the Philippines in 1968 and was immediately hired by the Department of Health, where he worked as a general physician until he left for the United States in 1976. He stated that his patients in the Philippines knew and trusted him and that he in turn knew and trusted his patients. He additionally explained that in the late 1960's the Philippines did not have the laboratory and x-ray facilities available in the United States; therefore, physicians in the Philippines had to depend more on physical exams and patient trust of the physician for diagnosis. Dr. Seguerra further stated that since he came to the United States he has used the same patient examination techniques he originally developed in the Philippines. He believes that the patients here in the United States who made complaints against him misunderstood him because he examined them gently and didn't have time to explain why he was doing certain things.

The Committee inquired about any criminal charges brought as a result of these complaints. Dr. Seguerra stated that there were criminal charges and he had taken a "Serrano plea," which meant that he pled guilty but denied the conduct. Dr. Seguerra stated that he wanted to have a jury trial, but his attorney advised him that he couldn't afford to go to trial.

The Committee asked Dr. Seguerra to explain why eight different individuals would testify that he engaged in improper conduct with them. Dr. Seguerra stated that he did the same thing that he did in the Philippines in examining these patients, but in a United States multi-racial society, people can misperceive his actions. The Committee asked Dr. Seguerra what he would do differently if his license were restored. Dr. Seguerra stated that

he would have to be very careful now and have a chaparron with him at all times. He said that he would avoid the stressful setting of an Emergency Room, and he would talk to his patients and explain what he is doing. He would speak slowly and pronounce his words carefully to be sure that they were understood.

The overarching concern in all restoration cases is the protection of the public. A former licensee petitioning for restoration has the significant burden of satisfying the Board of Regents that licensure should be granted in the face of misconduct that resulted in the loss of licensure. There must be a clear preponderance of evidence that the misconduct will not recur and that the root causes of the misconduct have been addressed and satisfactorily dealt with by the petitioner.

After a complete review of the record and its interview with Dr. Segurra the committee on the Professions concurs with the recommendation of the Peer Review Panel that Dr. Segurra's petition for the restoration of his license as a physician be denied.

The Peer Review Panel found that the applicant's claim that he was not aware of the sexual nature of his actions with the eight patients at the time he committed those actions is not credible. As the Peer Review Panel points out, it is the role of the Peer Review Panel and the Committee on the Professions to assess applicant's worthiness as of this point in time for relicensure. Petitioner's credibility is a substantial consideration for any recommendation on his petition for the restoration of his license. In looking back on the actions which resulted in the loss of his license, petitioner contends that he did not do anything wrong; rather these incidents were misunderstandings and cultural differences between himself and his patients.

Considering the seriousness of the charges of which petitioner was found guilty both criminally and administratively; considering the petitioner's efforts at rehabilitation; also considering the potential for harm to the public, the Committee on the Professions must recommend that this petition be denied. As the Peer Review Panel has aptly pointed out, even if petitioner's medical experts concluded that he does not have psycho-sexual compulsions, there is no explanation in the record how these doctors could eliminate the possibility that the applicant's misconduct was willful and knowing. Applicant's lack of credibility before the Peer Review Panel and the Committee on the Professions is a critical factor to be weighed in examining the petitioner's current fitness for practice as a physician in New York.



After a complete review of the record and its meeting with the petitioner, the Committee on the Professions recommends that Dr. Seguerra's petition for the restoration of his license as a physician be denied.

Thomas E. Sheldon

Frank Muñoz

Joseph Porter



# 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

**ELIEZER M. SEGUERRA**

**REPORT OF  
THE PEER  
COMMITTEE  
CAL. NO. 14524**

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

-----X

ELIEZER M. SEGUERRA, hereinafter referred to as the applicant,  
was previously licensed to practice as a physician in the State of  
New York. Said license was revoked as a result of a professional  
misconduct proceeding. The applicant has applied for the  
restoration of his license.

This Peer Committee met for purposes of reviewing said matter  
and reaching our recommendation to the Committee on the Professions  
and the Board of Regents, as reflected by this report.

## 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) have been compiled by  
the prosecutor from OPD into a packet that has been distributed to

ELIEZER M. SEGURA (14524)

this Peer Committee in advance of its meeting and also provided to the applicant.

Listed immediately below is the background information from that packet, the details of which may be found in the individual documents referred to from the packet.

PRIOR DISCIPLINE PROCEEDING

Action by Board of Regents: May 24, 1991

Determination of Board of Regents: Revocation of license to practice as a physician in the State of New York.

Order of Commissioner: May 31, 1991

Effective date of Order: June 10, 1991

Specifications of charges found guilty:

- willful abuse of a patient (eight specifications)
- moral unfitness to practice the profession (one specification)

Nature of the misconduct:

From September, 1987 to December, 1988, the applicant was found to have had improper sexual contact with eight individual female emergency room patients the applicant was examining. The incidents occurred while the applicant was working as an emergency room physician at three Long Island hospitals: Franklin General Hospital, Valley Stream, New York; Mercy Hospital, Rockville Centre, New York; and Good Samaritan Hospital, West Islip, New York. The incidents as described in the report of the hearing committee involved, among other

**ELIEZER M. SEGUERRA (14524)**

acts, instances of the applicant conducting a vaginal exam while ungloved; rubbing against patients in a sexual manner; fondling patients breasts or other parts of the body in a sexual manner; and the applicant making suggestive remarks to at least one of the patients with whom he engaged in these acts.

**APPLICANT'S PETITION FOR RESTORATION**

Description of the petition:

- Dated January 15, 1993
- Four page single spaced document in memorandum form "To: Board of Regents..." --signed by the applicant and in which the applicant refers to himself in the third person as "the petitioner"-- a signature page, and a large number of attachments to be described below
- The body of the petition is divided into sections titled: "History of the Case;" "Attachments;" and "Argument for Restoration."
- Under the "History" section, the applicant describes his medical training in the Philippines, his immigration to the United States in 1976, the internships and training he underwent in various forums in New York City, and becoming a full time emergency room physician at Franklin General Hospital from June of 1982 until June of 1988. He also had a second full-time position at Central Islip Psychiatric Center

**ELIEZER M. SEGUERRA (14524)**

from August, 1983 until July, 1989. He states he left Franklin General Hospital in June of 1988 and accepted a position at Mercy Hospital; and that in July, 1988, he also began part-time work at Good Samaritan Hospital

- Continuing with the history, the applicant recounts the commencement of the discipline proceeding in June, 1989; hearings from August, 1989 to May, 1989; and the resulting revocation, effective June, 1991. He also states he was charged criminally and entered a Serrano (no contest) plea for which he was not incarcerated. In May of 1990, "in an effort to understand his problem and to begin rehabilitation," he underwent therapy with Dr. Tsu Teng (Thomas) Loo and then Dr. Mallie C. Taylor when Dr. Loo was called to active military duty during the Gulf War. Additionally, he was a patient at Golden Valley Health Center, Golden Valley, Minnesota from September 8, 1991 through September 13, 1991, "to gain further insight into the factors which led to the revocation of his license..." He states he went to Golden Valley on the advice of the Medical Society of the State of New York, who "became petitioner's advocate when his license was revoked in June of 1991." The petition states the applicant has "worked regularly with the Medical Society of New York, specifically Mrs. Karen Pollard-Park, R.N., M.S., Mr. Dan Michaels, and Dewveall Williams, who have been his case coordinators."

- In the "Argument for Restoration" portion of the petition, it is stated:

- there was a period of denial in which the applicant blamed others for his problems, however, fourteen months of intense psychotherapy and participation at Golden Valley has given the applicant a "much greater understanding of his problem and an insight into the measures necessary to fully rehabilitate himself."

- he states the doctors have ruled out any mental psychosexual disorder or paraphilia of frotteurism.

- his problem is said to have been diagnosed as "adult adjustment disorder" due to his one dimensional, workaholic life which prevented him from familiarizing himself fully with American customs and mores and his total integration into American culture; and his lack of skill in the English language.

- he describes how, though still motivated to work hard to support his family, he has developed outside interests and interpersonal relationships, a process he began while residing in Florida after his revocation and has continued under the auspices of the New York State Medical Society

- he states he has learned that "physician/patient interplay" acceptable in the Philippines is not acceptable here, including touching in a non-clinical manner and use of such terms with female patients as "honey" and "sweetheart."

Unstated explicitly in the petition but inferential in this explanation is that such cultural misunderstandings are what occurred in the incidents for which he was found guilty.

- he states that close contact with his sister in Florida, who is also a physician, has been helpful in his understanding proper patient/physician boundaries.

- he states lack of English skill is still a problem, but that facilities for addressing that problem are more readily available in New York than Florida.

- he states he still a good physician.

- he acknowledges past mistakes but that, with professional help, he has discovered the root cause of his problem, that he is rehabilitated from his problem, and that there would be no recurrence of such behavior.

- he apologizes for his past misconduct.

- he states he is willing to continue his rehabilitation under the supervision of the Medical Society.

ATTACHMENTS TO PETITION

- Eight letters from Sarasota, Florida area hospitals and organizations attesting to continuing medical education courses and conferences attended.

- affidavits and letters of testimonial on behalf of the applicant, including numerous letters from co-workers and two physicians at the medical laboratories at which the applicant works in Florida as a technician; and several letters from New

York area physicians with whom the applicant has worked as well as one from the applicant's brother who is a physician.

- completion by way of eight page attachment of the form required to be submitted with restoration applications, listing the applicant's complete professional education and employment history.

#### INVESTIGATION

Subsequent to the receipt of the application, OPD conducted an investigation for purposes of this proceeding. Below are briefly described the various investigative reports and documents obtained that are included in the packet provided to the parties and to us for our review, as well as a brief description of any information contained therein not already stated in this report to this point.

#### Interview with OPD investigator:

On May 11, 1993, the applicant was interviewed in connection with this proceeding by an investigator, who summarized the interview in a report dated May 24, 1993. Among the key statements elicited from the applicant, as stated in the report, are the following:

- The applicant denied having committed sexual improprieties, offering the investigator defenses for five of the incidents and stating he would submit a complete statement of his defenses in writing. Such a statement, dated the next day, was provided by the applicant and is described in the next section of this Peer Committee Report, below.



- The applicant stated in the interview that he always gave good physical examinations, including palpations, gentle percussion and auscultation, according to the specificity of the patient's complaints.
- The applicant described to the investigator the "adverse" conditions in the emergency rooms in question; contended that the small size and crowded nature of those rooms should be a basis for re-evaluating whether it was humanly possible to have committed the improprieties alleged; and stated the emergency rooms were very understaffed, forcing the doctors to be alone with patients during treatment.
- He stated he has remorse over the incidents, stating he will have a nurse present in the future when he examines patients.
- He describes the devastation the revocation causes him, citing that his children are dependent on him for a college education. He stated that he lost his job and that at that time of the interview, he was unemployed. He stated he lives on Social Security and the support of his family. He had worked for a time after the revocation as a Lab Technician at the Englewood Community Hospital, Englewood, Florida.
- He stated when he was licensed, he had worked sixteen hours a day, fifty-two weeks a year and never had a complaint against him other than from the eight patients in question. He stated he had no problems with the administrations in the hospitals where he worked; that the nursing and other staff

from Central Islip Psychiatric Center signed a petition on his behalf; and that the Personnel Director at that facility indicated a willingness to hire the applicant as a Medical Specialist because of the applicant's past outstanding performance.

- He further stated in the interview that in an effort to rehabilitate himself and to understand why he was charged with these improprieties, he went to Drs. Loo and Taylor, forensic psychiatrists on Long Island. He stated that, after extensive evaluation, they found no psycho-sexual disorders and advised him to always have a chaperon present during examinations in the future.

- He described his stay, in September, 1991, at Golden Valley Health Center, Golden Valley, Minnesota, made at the behest of the New York Medical Society. He stated that the resulting written assessment, which he provided to the investigator, found no psych-sexual problem but they concluded that the applicant had an interpersonal/culturally related problem.

- He noted that many of his former co-workers provided testimony for the applicant at the discipline hearing.

- He stated he has taken eighty-nine hours of continuing medical education from November, 1991 to March, 1993 at Venice and Sarasota hospitals in Florida.

- He has also read numerous professional journals, which he has had access to through his sister, a physician in Florida.

- He stated he has volunteered community service for the elderly in Florida.
- He stated he loves medicine; if allowed to practice he would serve his patients in a highly professional manner; and will support his children's college education.
- The investigative report on the interview concludes by stating: "Subject is now aware of the differences in people's cultural background and the problems that could arise because of these differences. He has already made efforts to correct the above-stated interpersonal/culturally related problem by interacting with people from different cultures especially while he was in Florida."

Applicant's written explanation of the discipline charges and proceeding:

As stated in the interview, the applicant provided a written account of his view of the disciplinary proceeding. The statement was dated May 12, 1993, the day after the interview. The document consists of twenty typewritten pages, the first five of which are single-spaced and the remaining pages double-spaced, and consists of a short introductory statement followed by sections titled "History of the Case" and "Facts About Each Incident."

The applicant, in the introductory section, describes the document as consisting of (I) a summary of the charges and what he has done since revocation and what he has done to rehabilitate himself and assure there will be no recurrence of the events that

**ELIEZER M. SEGUERRA (14524)**

led to revocation and (II) a description of conditions in the emergency rooms which will allow the Board of Regents further opportunity to evaluate "whether it was humanly possible for an emergency room physician, who was only doing his job honestly and in a highly professional manner, to knowingly commit these crimes as charged."

Among the points made by the applicant in the "History of the Case" portion of the statement:

- The applicant reiterates his account of his childhood and medical training in the Philippines, including his employment by the government for eight years as a rural health physician. He states of that of the six children in his family, three others, beside himself, have become successful physicians in the United States.

- He describes, as previously recounted, the multiple employments he had as an emergency room or staff physician on Long Island, stating that he needed money badly to support his family of five children, two of whom were in college. He describes how Central Islip Psychiatric Center, one of his two full-time employers, and not one of the hospitals where accusations occurred, conducted an extensive investigation in view of the accusations elsewhere, and found no abuse of patients in the six years he worked there. He also described how highly thought of he was there and noted the petition signed by the staff on his behalf.

**ELIEZER M. SEGUERRA (14524)**

- He described his workaholic existence in the United States and his daughter's medical school education and achievements.

- He then described conditions in the emergency rooms in question and how they made it impossible to "knowingly commit these charges of sexual abuse as charged."

- He described: the small dimensions of the rooms; how they were like small boxes, "separated from the hallway by hanging curtains in front of each cubicle, which could not be closed completely but only halfway;" how the stretchers were tall with little space between them; how each cubicle was separated by a curtain that could not be completely closed, so that adjoining patients could see and hear most of an examination that would be occurring; how the emergency room was always crowded with technicians and family members;

- He also described the emergency rooms as understaffed, with the nurses too busy to be able to serve as chaperons during examinations.

- He described many of patients, including "the patients that charged him with sexual abuse," as addicts who would demand painkillers such as Demerol in very precise amounts known to them

- He described several incidents of violence or other unpleasant incidents experienced by himself or fellow staff members at these emergency rooms.

ELIEZER M. SEGUERRA (14524)

- He described the unstable nature of the patient population and how many of them were psychiatric patients admitted through the general emergency room.

The document then proceeds with a section called "Facts About Each Incident," in which the applicant states he wishes to "discuss a couple of the allegations about each case that I did not have a chance to present to the hearing committee since some of the questions were not asked during the hearing." The applicant presents a narrative and his defense for five of the incidents and states it is not necessary to do so for the remaining incidents as they were along the same lines. A brief summary of the applicant's statements on the five incidents, as found in more detail on pages seven through thirteen of the document, follows:

Described Incident I:

Patient described right lower quadrant pain; the applicant wished to rule out several possible conditions, including Pelvic Inflammatory Disease; states area was crowded with family members and he could not locate a nurse free to assist him; did a quick examination and ordered blood tests; the patient insisted on a large dosage of Demerol; he would give her only a smaller dosage than requested; patient would not stay in the ER while he examined other patients; the next day, her private physician called the applicant and discussed the case; was informed by the hospital several days later that a complaint was filed; after a week long extensive

investigation, the applicant was found by the hospital not to have committed any wrongdoing.

Described Incident II:

Patient's brother worked with the applicant as an emergency room aide; the applicant states the brother had a history of drug abuse and was being watched by a detective; the brother asked the applicant to see his sister who complained of severe abdominal pain; her brother was present during the exam which included a gentle abdominal examination; the conditions at the ER were described as crowded and chaotic; the patient asked for a pelvic exam since she always had the pain when she was menstruating; since the patient was menstruating, the applicant consulted a gynecologist, who advised he have an out-patient sonogram performed with follow-up by the patient's private doctor; states he did not do a pelvic exam; the brother and sister asked for a prescription for a diet pill, Tenuate Dospan, described by the applicant as habit-forming and highly abused; as a courtesy to her brother, he prescribed her a one months supply; after a week, the patient called the applicant many times asking for more of the drug; the applicant refused and the brother became angry with the applicant and refused to talk to him; the applicant states that when his name appeared in the newspaper regarding sexual allegations, this patient also filed a complaint, "as was the case with other patients;" she accused him of having sex with

him at a motel at a time the applicant stated he was actually working and she could not name the motel; the patient admitted addiction to amphetamines even prior to the ER visit.

Described Incident III:

Patient described as one who "also filed a complaint against me for sexual abuse only after reading my name in the newspaper;" states she was a former hospital employee, a secretary fired for excessive absenteeism; states chart shows she was examined by another physician and that the applicant never saw this patient.

Described Incident IV:

The applicant describes this patient as annoyed for having to wait so long for attention; that the applicant was the only physician working that night; the patient complained of chest pains for the past week; how her stretcher was in very close proximity to that of another patient's; how he did a professional examination of her upper body and that the patient continued to be angry and uncooperative; how she asked for a gynecological exam since she had a vaginal discharge and itchiness; how no nurse was available to assist him; how he noticed an inflammation and examined her with sterile, lubricated gloves; how an orthopedic surgeon was applying a cast to the patient on the next stretcher; how he could not of contacted her body with his penis, as alleged, because of the height of the stretcher and his own short height; how the



patient gave an investigator a false address; and how she had a previous criminal conviction of attempting to kill her boyfriend by putting a gun to his head.

Described Incident V:

The applicant describes a patient complaining of severe shoulder pain of several days duration with no history of trauma; how he examined her professionally with no sign of trauma and how the patient did not appear to be in pain; how she was x-rayed and refused to believe his reading of no dislocation; how he gave her a prescription for Butazolidin but that she was not happy with this and insisted on a shot of Demerol which he refused.

After the above descriptions of incidents, the applicant's May 12, 1993 document submitted to the investigator continues by recounting the discipline proceeding. The applicant, in the course of his description of this period of time, states on page fourteen: "My license was revoked June 10, 1991 and to date I have never been charged or convicted of any crime." Then, several paragraphs later, on page fifteen of the document, the applicant states, "I was charged criminally and I insisted to my lawyer that I wanted to have a trial by jury or judge in order for me to prove my innocence in the courtroom while the hearing of my medical conduct was still going on." The applicant states how he could not afford the legal fees and, on his attorney's advice, took a "Serrano Plea," which he states was explained to him as meaning "that I admitted to

**ELIEZER M. SEGUERRA (14524)**

examining the patients as charged but did not acknowledge any guilt as to wrongdoing." He states his attorney told him that "this plea would not affect the outcome of my medical conduct hearing that was still in progress."

The applicant states he sought psychological help while his discipline hearing was still pending "in an effort to understand myself, why I was charged for sexual abuse by these eight patients, among the thousands I had treated..."

The document then reiterates much of the information stated in the petition concerning the applicant's consultations and treatment with Drs. Loo and Taylor and with Golden Valley, how he was found free of psycho-sexual disorders and how he has since been helped by the services of the Medical Society.

He then states relief at discovering "my problem" that brought on his revocation, which he ascribed to his one-dimensional lifestyle, his lack of English skills, and his lack of integration into American culture.

He then describes, as he did in his petition, his changed attitude, his continuing education, and his work as a lab technician in Florida.

He then states in the document that what might be acceptable in the Philippines as informal interplay between a patient and a physician could be interpreted as offensive in America. He states he will "avoid offensive touching" in the future and using such unacceptable terms as "honey" and "sweetheart." He states that

"one year of intense individual psychotherapy has given me a much greater understanding of my problem and helped me to fully rehabilitate myself."

He concludes the document saying he "understands that I unknowingly made mistakes in the past, and acknowledge my wrongdoing. I am truly sorry for my actions and wish they could be undone."

Position of the Office of Professional Medical Conduct

Pursuant to the investigation, OPD solicited and received from the Office of Professional Medical Conduct (OPMC), New York State Department of Health, which prosecuted the disciplinary proceeding, its position on this application.

In a letter dated May 26, 1993, Kathleen Tanner, Director, OPMC, states opposition to the application. She expresses concern about the applicant's "failure to acknowledge his sexual misconduct." Ms. Tanner further states that "His explanation that his sexual abuse of patients was due to cultural differences is not credible and we are not convinced that his unacceptable behavior will not reoccur." She also states her Office views the restoration of the applicant's license as a "significant threat to the public."

Evidence of Continuing Medical Education:

Subsequent to submitting his petition, and during the period of the investigation, the applicant submitted numerous documents to

authenticate the efforts at continuing medical education stated in the petition. Those documents include:

- A packet from Sarasota Memorial Hospital, listing the numerous courses attended in 1992 and 1993.
- A letter from Venice Hospital, listing the numerous courses attended in 1992 and early 1993.
- Two packets provided by the applicant to the investigator consisting of photocopies of the covers of medical journals and of articles claimed to have been read.

Additional References

The investigative packet also contains numerous reference letters submitted during the course of the investigation in addition to those attached to the petition. These appear to be mostly resubmissions from the period of the original discipline matter and are dated approximately 1989. They therefore make no reference to the disciplinary adjudication, nor do they state whether the writers were aware of the nature of the charges against the applicant. These include various letters from physician colleagues and petitions signed by nursing staff and other co-workers.

Psychological Reports and References

- Letter of January 2, 1991 from Tsu Teng Loo M.D., D.P.N., a forensic psychiatrist, stating the applicant has been under his care for psychotherapy since May 21, 1990. It cited the goal of the therapy as helping the applicant develop the

sensitivity required when examining female patients and to deal with the emotional stress from facing criminal prosecution and civil litigation.

The letter states that: An extensive psychosexual evaluation has failed to reveal any outstanding psychosexual disorder or paraphilia of frotteurism. The diagnosis is stated as "other interpersonal problems." It states the applicant's condition is not attributable to a mental disorder. It states that his prognosis is good and the "likelihood of future transgression is none" based on the past humiliation and financial dislocations the applicant has suffered and his dedication to ensuring his children's higher education. Dr. Loo recommended seven more months of biweekly psychotherapy augmented by an antidepressant.

- Letter dated March 5, 1991 from Dr. Mallie C. Taylor, M.D., D.P.N., Dr. Loo's replacement during his military service, who saw the applicant twice and described him as anxious and depressed but stated the prognosis was good for the abatement of those conditions after the applicant's "legal problems are resolved."

- Previous letter of June 29, 1990 from Dr. Loo, also stating that the applicant's disorders are not psycho-sexual and that his prognosis is good.

- Report dated October 21, 1991 from Rafael Fernandez, M.D. of Golden Valley Health Center, Golden Valley, Minnesota, and a

letter report dated October 21, 1991 from Richard Irons, M.D of that facility, to the Committee on Physicians Health, Medical Society of New York, reporting on the applicant's evaluation at that facility. The diagnosis of the applicant was "work related and interpersonal problems associated with cultural adjustment deficits;" and "Compulsive specific personality traits. Culturally specific interpersonal relationship difficulties, both personal and professional." The assessment team at that time recommended (1) against the applicant practicing in the United States until these cultural deficits were addressed. It found no problem with his competence and stated he should be able to practice in the Philippines with no difficulty.

- Among the recommendations to be followed before the applicant should return to practice in this country was (2) assistance in English in conjunction with "education in cultural norms and attitudes toward women within this multiracial American society." Also recommended were (3) education on appropriate doctor-patient boundaries; (4) peer contact with those from the Philippines who have made the successful transition to this country; and (5) employment in the interim at a laboratory or other facility where a license is not required and exploration of other career alternatives should he not be able to return to practice. The report concluded by stating that "the problems that we see are

significant but with time and effort can be overcome. We wish him good fortune and success in his endeavor."

Employment evaluation:

- The investigative packet included an evaluation from a lab in Florida where the applicant was employed which gave him a high evaluation for the category "promotes customer service" and which commented that he has good rapport with customers, many of whom ask for him specifically.

PEER COMMITTEE

On March 10, 1995 and May 5, 1995, this Peer Committee convened to review this matter. The applicant appeared before us and was represented by counsels Scott I. Eininger, Esq. and Loren Smith, Esq.

Representing OPD and appearing before us was Franklyn Perez, Esq.

Prior to our first meeting, counsel for the applicant made an application that our Peer Committee review be transcribed. We note that, normally, at the direction of the Board of Regents and the Committee on the Professions, the Peer Committee meeting is considered a review, not a hearing, and is not to be transcribed. However, as on occasions in the past, a transcript has been allowed of the Peer Committee review under certain specified conditions.

By letter dated March 3, 1995 to Mr. Eininger and Mr. Perez from this Committee's legal advisor, Andrew Tolhoff, Esq., we

**ELIEZER M. SEGUERRA (14524)**

agreed to allow the counsel for the applicant's request for a transcript under the following conditions:

1. That the prosecutor does not object.
2. The applicant must pay for the transcription, including the copy made for the Office of Legal Services and the Division of Prosecutions.
3. The existence of such a transcript in no way converts the matter into a formal hearing or changes the nature of the Peer Committee meeting, as characterized above.

These conditions were agreed to by the parties and both meetings of the Peer Committee in this matter were transcribed.

Before we began the proceedings, the applicant offered and this Committee received material additional to the above described packet of material that was previously distributed by the prosecutor to this Committee in advance of our meeting.

The newly received material from the applicant was supplied in two bound volumes. The submission is divided into three main sections: Psychiatric and Psychological Profile Since License and Revocation; Comprehensive Education Undertaken by Eliezer Seguerra, M.D. Since License Revocation; and Affidavits and Letters in Support of Restoration Petition. Most of the material submitted is a re-packaging of the material already described, above. The new material concerns the period since the end of the investigation and our Peer Committee meeting. That material will be described in our summary, below, of the Peer Committee proceedings.



In view of the existence of a transcript in this matter, we will limit our summary of the Peer Committee review to a brief synopsis of each key attorney argument and witness testimony, with reference to the transcript pages where those portions of the proceeding may be found.

Counsel for the Applicant's Opening Statement (Transcript pages 4-13).

Counsel recounted the regimen of psychological evaluation and treatment undergone by the applicant, emphasizing the conclusions that he suffers no psycho-sexual disorder, but had a cultural deficit disorder exacerbated by the workaholicism that prevented the applicant's proper integration into American society. Counsel stated that the likelihood of future impropriety is none. He restated the recommendations for action by Golden Valley and declared that the applicant has fulfilled all of them. He highlighted the 140 hours of Continuing Medical Education taken by the applicant; the courses taken in English proficiency; and the support shown by the applicant's co-workers.

Testimony of Bettany Seguerria (Transcript pages 17-41):

The witness is the daughter of the applicant and a third year medical student. She emotionally described the devastation her father's revocation caused him and the family.

She states she came to the United States when she was eleven and that her father worked long hours as the sole support of his family. She repeated the conclusions of the Golden Valley

**ELIEZER M. SEGUERRA (14524)**

evaluators. She described how her father went to Florida after the revocation to live with her aunt, a pediatrician, and how he took continuing education courses in Florida. She stated her parents are divorced, mostly due to a combination of the events surrounding the incidents that led to revocation and to financial reasons.

Testimony of John Wladyka (Transcript pages 41 to 64).

The witness is the applicant's current employer at a medical laboratory in Long Island where the applicant is an accessionaire. Reference was made to the applicant's evaluation where he is described as a good employee. The witness stated the applicant was highly personally thought of and is looked up to as a father-figure by the other employees. The witness stated the applicant informed him of the past problems about five or six months after the applicant's employment began. The witness stated he does not know the full details of the charges, but that the information did not change his opinion. He stated he has a high opinion of the applicant based on his personal knowledge and dealings with the applicant.

Testimony of Christine Wolfer (Transcript pages 65-84).

The witness has been a recovery room nurse at Franklin General Hospital for over sixteen years. She stated that the applicant would see over half the emergency room patients. She described the high praise for the applicant's character she and her co-workers have. Reference was made to the petition and letters on the applicant's behalf dating from that time. She stated she has only

vague knowledge of the allegations against the applicant, but stated that she did not see how such misconduct was possible given the physical conditions at the emergency rooms. When asked, she stated the applicant definitely had a language problem but that one learned to understand him. She also stated that the only complaints about foreign doctors at Franklin General Hospital concerned the language barrier.

Testimony of Navin Shah, M.D. (Transcript pages 84-112).

The witness is a psychiatrist who works at Central Islip Psychiatric Center who has known the applicant since 1983. He worked with the applicant for five years. He stated he knows of the applicant's misconduct and is satisfied that it was an aberration. The witness believes the applicant should be given a chance to regain his license.

A good deal of colloquy and controversy then ensued among the party attorneys as to whether the witness could serve as an expert witness and comment upon and interpret the psychiatric reports available to us in the proceeding. The witness stated he understood himself to be present as a character witness. The applicant's counsel explained that since the applicant could not afford the fee of Dr. Loo as a witness, that Dr. Shah, as a psychiatrist, was offered to provide some insight on the reports. Ultimately, the controversy proved moot, as Dr. Shah stated he was not an expert on psycho-sexual disorders and refrained from offering an opinion. The witness gave his testimony on the

ELIEZER M. SEGUERRA (14524)

applicant's character based on the years they knew and worked with each other.

Testimony of Duval Williams (Transcript pages 112-162).

The witness is the applicant's case worker from the Committee on Physician's Health (CPH), New York Medical Society. He recounted the history of the applicant's case with CPH based on his knowledge and on logs of the applicant's past case workers. It was elicited that the applicant chose to come to CPH after his treatments with Drs. Loo and Taylor and after his revocation. It was CPH that recommended and arranged for the exhaustive evaluations at Golden Valley. The applicant has maintained continuous contact with CPH since, with CPH keeping track on a monthly basis of the in-service CME taken by the applicant and his compliance with the other steps recommended by Golden Valley such as English proficiency courses.

The witness stated the applicant has been in full compliance with the recommendations of Golden Valley and that the applicant's involvement with CPH has been excellent.

Our Committee asked the witness whether CPH considered a third possibility when taking on a case such as the applicant's than psychosexual disorder or cultural deficit disorder-- that is the possibility then the subject committed bad acts intentionally and by free will. The witness answered that there are cases that CPH deems inappropriate for it to take on.

**ELIEZER M. SEGUERRA (14524)**

On cross-examination, the witness stated he had no direct information as to whether the applicant denied committing the acts of sexual impropriety.

Additionally, the witness did explain that CPH did not simply take Golden Valley's conclusions and recommendations on face value, but that doctors from CPH conversed with the doctors from Golden Valley and asked the basis for Golden Valley's conclusions.

Testimony of the Applicant, Eliezer M. Seguerra (Transcript pages 163-202 [first Peer Committee meeting date] and pages 208-287 [second Peer Committee meeting date]).

On direct examination, the applicant explained that, while his discipline case was still pending, "I want to know...if there's any problem with me..." It was then that he consulted Dr. Loo who told him, "I do not have any psychosexual disorder, that because of my problem was due to lack of interpersonal skills, both personal and professional, and that it is culturally work related." The applicant then stated he understood that to mean that "I don't address the patients properly by their names," meaning he should not have used such forms of address as "honey" and "sweetheart." Dr. Loo's advice was to make sure the applicant had a chaperon when he examined female patients. The applicant stated he ceased seeing Dr. Loo in July, 1991 because the applicant was told he did not need further rehabilitation.

The applicant further recounted how, after the revocation, he was emotionally devastated and concerned for the financial well-

**ELIEZER M. SEGUERRA (14524)**

being of his children. He described how he voluntarily sought the evaluation at Golden Valley at great financial cost. He reiterated their conclusions and recommendations, as previously stated in this report.

He then recounted his stay with his sister in Florida and how he completed 85 hours of CME in his first year there. He also described his relationships with other Philippino physicians, as recommended by Golden Valley, and how he sought advice from them on cultural integration into America. He again stated he learned he should have a chaperon during examinations of females.

The direct examination also focused on events and the new documentation relating to the time since the applicant first filed his petition. The applicant noted he is taking a course in English proficiency for professionals, begun in December, 1994. Counsel noted the documentation of the course in the new exhibits as well as the reproductions of covers of books the applicant has been studying on English as a second language.

The questioning then focused on a recent re-evaluation of the applicant by Dr. Loo, dated February 6, 1995. Counsel referred to the new exhibits, which stated the applicant suffers from no psychosexual pathology and that he has followed the recommendations of Golden Valley, including taking English proficiency courses; taking courses on ethics and on patient/doctor boundaries; and maintaining close relationships with peers who have successfully transitioned into American culture.

The applicant noted he has applied for membership in the Philippine-American Association. Also, he has read books and taken courses on "intercultural communications and gender diversity in the workforce." Cited and included in the new exhibits was a course on that subject, successfully completed at Stony Brook, as well as a list of books on the subject. The applicant stated how he learned how language problems and cultural differences on such behavior as touching might have resulted in misinterpretations of his actions with his patients.

The applicant's counsel then asked the applicant to make a statement to us. The applicant stated how he has learned that his compulsive drive to work was very self-destructive; that he must develop inter-personal relationships outside of work to facilitate his assimilation into American culture; how he must use a chaperon during examinations; and how he cannot be too busy to explain to his patients what he is doing.

In regard to the perceptions of the eight patients who accused him, the applicant stated: "I believe that they misperceived, that they misunderstood me, with the reason that I didn't even have enough time to explain to them what I was doing. So they probably misunderstood me."

Finally on direct examination, the applicant was asked what the most important thing he has learned in his classes on intercultural problems and he answered that he must have a chaperon.

In his cross-examination, Mr. Perez inquired whether the applicant discussed with Dr. Loo, in the recent consultation, the applicant's position on whether the acts of sexuality occurred. The applicant stated before us he did not have that discussion, since there is no issue of whether he has a sexual disorder.

On the question of whether the applicant believed he did anything wrong, he stated he was unaware of doing anything wrong and that he examined these patients as he did thousands of patients before them.

When asked by this Committee and its counsel what he believed he was found guilty of, the applicant replied: "That I was misunderstood by the patients, because of my poor cultural adjustment." The applicant agreed he was found guilty of sexual improprieties, but stated they were done without his knowledge. He also stated he did not realize that he committed wrong until told so by the experts.

In further colloquy among those present as to the scope of questioning before us, Mr. Perez made the statement, "... there is no medical reasons for fondling of breasts or nipples," whereupon the applicant responded, "I did not do that."

Our Committee brought up again an issue raised in its questioning of the earlier witness, Mr. Williams, that is whether a third explanation is possible besides a psychosexual disorder or a cultural deficit disorder: that is that the applicant knowingly committed bad acts by free will. The applicant stated he had no



**ELIEZER M. SEGUERRA (14524)**

malicious thoughts and was only interested in giving a proper physical examination.

The applicant emphasized what he has learned about the different attitudes between Philippino and American women in their dealings with their physician, explaining that Philippino women would not have the distrust of their doctor's motives one might find in this country. He also described what he learned from the Stony Brook course on differing attitudes about language and touching among different cultures.

In questioning the applicant, our Committee was also interested in his prior written statement of May 12, 1993, in which the applicant seemed to be attributing his problems to the unstable lifestyles and character of his accusers. The applicant initially replied before us that he was "just defending myself..." when he wrote those statements. When pressed by our questioning, he agreed that he was at fault and the backgrounds of the patients' were irrelevant.

A discussion was had as to the proper reaction to the crowded emergency room conditions and how the applicant would handle the situation in the future. He stated he should have complained more immediately of the conditions to the administration, but that, in any event, in the future, he would not practice in an emergency room, but in a much less pressured environment such as a nursing home.

He also discussed that, while he still needed to work hard to help educate his children, he would not work quite so many hours. In any event, two adult children, one a doctor and one a nurse, are working and contributing to the family.

Closing statement of the Department's counsel:

Mr. Perez stated that OPD opposed the application for restoration. While OPD believes that the applicant may have fulfilled the education criterion, it does not believe he has fulfilled the criteria of rehabilitation and remorse.

Mr. Perez stated that none of the psychiatric submissions discuss in any detail the nature of the actual acts adjudicated as committed by the applicant in relation to how they were misunderstood. Nor have been addressed the issues of the conditions in which the applicant worked; the effects of the resulting pressures upon the applicant; and what the applicant has done to deal with this issue.

Mr. Perez stated that as long as the applicant maintains the incidents of which he was found guilty were a result of a cultural problem, he has not demonstrated an understanding of the nature of the problems that need to be addressed in the treatment process.

Closing Statement of the Applicant's Counsel

In her closing statement, Ms. Smith argued that, to the extent that the applicant has looked for the root of his problem, he has addressed that problem and the issue of remorse and rehabilitation.

She noted the devastation the revocation caused him and the clear remorse he has shown. She noted that he voluntarily sought psychological evaluation and counseling, even though the State never asked him to. She noted how he has fulfilled all the recommendations of Golden Valley, including classes on intercultural problems and on English proficiency. Ms. Smith maintained that the applicant has done what he can to fulfill the criteria for restoration.

She also pointed out that nine doctors have agreed that the applicant does not have a psychosexual disorder that would make him a threat to the public.

Mr. Einiger added that the applicant has sought the root cause of his problem and there is nothing in his power he has not done to prove he is worthy of restoration.

#### RECOMMENDATION

We have very carefully considered the entire voluminous record in this matter. In doing so, we come to a conclusion from which flows our final recommendation. We conclude that the applicant's claim that he was not aware of the sexual nature of his actions with the eight patients, at the time he committed those actions, is not a credible claim.

In stating so, we wish to point out that this conclusion constitutes a greatly different issue than addressed by the court case of Melone v. State of New York Department of Education, 182 A.D. 2d 875. In Melone, the court stated "petitioner need not

surrender his contention that he is innocent of the charges in order to be readmitted to his profession."

We do not dispute the applicant's right to deny his guilt to the original charges. What we can and do dispute is the credibility of the explanation this applicant has provided. While the applicant may offer an explanation, it is still our prerogative as to whether we accept that explanation. Furthermore, the issue before us is the applicant's worthiness today for re-licensure. By concluding from the record before us that the explanation of the applicant lacks credibility, it is the applicant's credibility today that becomes the major basis for our recommendation to deny this application for restoration.

We note that the Melone decision itself quotes and affirms the standard stated in Matter of Greenberg v. Board of Regents of University of State of New York, A.D.2d [October 31, 1991]: "An individual seeking restoration of a professional license following revocation bears the burden to submit such evidence as would compel the exercise of discretion in his favor."

It is clear from this citation the Melone decision did not intend that any applicant for restoration can shift the burden of carrying the proceeding to the State merely by taking the expedient tack of denying the original misconduct.

Rather, in the Melone decision, the court was concerned about the one-dimensional focus of the deciding committee in that case. The court noted the committee not only ignored the applicant's

right to maintain his innocence, but it then focused on the applicant's claim of innocence to the exclusion of a number of other criteria that should be considered when deciding on an application for restoration. Those other factor include gravity of the offense, the petitioner's rehabilitation, risk of harm to the public, and professional competence. In the application before us, we have considered all those criteria.

We note that one of the original charges for which the applicant was found guilty was lack of moral fitness in the practice of medicine. It is our belief that the applicant's lack of credibility by itself demonstrates insufficient rehabilitation from moral unfitness to practice.

In concluding the applicant's claim lacks credibility, we note that the original discipline proceeding was an exhaustive evidentiary hearing involving multiple hearing dates. The hearing committee heard legally sufficient evidence of eight separate female victims not acquainted with each other. Most or all of these incidents were reported almost immediately.

The findings of fact in that hearing detail graphic acts of improper sexual behavior with the patients not related to the practice of medicine. They detail furtive actions by the applicant of quick exits from the examination area when other people approached or suddenly throwing sheets over the patients as others approached. We cannot reconcile these adjudicated circumstances with a claim of cultural misunderstanding.

In that regard, it has been imprecise throughout this whole restoration process what the applicant claimed occurred at these examinations that could be misinterpreted. This imprecision further undermines the applicant's credibility.

In his written statement of May 12, 1993, the applicant appears to be claiming that the unsavory nature and motives of his accusers were to blame for his being charged. He is plainly expressing in that statement that no action at all on his part occurred that could be questioned, but that he was falsely accused. We note this May 12, 1993 statement was made almost two years after the psychological evaluations and sessions the applicant claims gave him insight into his cultural disorder.

Later in the proceeding, he seems to say something did happen at these exams, and although not made clear what, he claims these acts were the basis of a cultural misunderstanding.

It is also not made clear how the applicant's psychiatrists came to their conclusions in the face of the detailed adjudication papers in their possession. Even if, in their expertise, these doctors can conclude the applicant does not have psychosexual compulsions, it is not explained how the doctors could eliminate the possibility the applicant's misconduct was willful and knowing.

While the applicant may proffer medical reports or expert testimony, it is still the burden of the applicant in this proceeding to demonstrate his worthiness for restoration. We believe the evidence presented fails to meet that burden.

ELIEZAR M. SEGUEA (14524)

In making that conclusion, we note we have taken into account two key criteria mentioned in the Melone case: the seriousness of the original misconduct and the risk to the health and safety of the public.

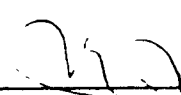
In view of the egregious nature of the misconduct found in the original revocation proceeding, we cannot see how the public can be protected by restoring this applicant's license based on his explanation and given the record before us.

The applicant's explanation is inconsistent, implausible and lacks substantiation. It raises real questions as to the advisability of granting restoration, particularly in view of the potential threat to the health and safety of the public.

It is therefore the unanimous recommendation of this Peer Committee that the application before us be denied.

Respectfully submitted,

Iraj Iraj, M.D., Chairperson  
Richard V. Lee, M.D.  
Anthony Santiago, Public Member

  
\_\_\_\_\_  
Chairperson

2/24/14  
\_\_\_\_\_  
Dated