

THE STATE EDUCATION DEPARTMENT THE UNIVERSITY OF THE STATE OF NEW YORK THE STATE EDUCATION SERVICE FOR SCHOLARSHIP AGENCIES

OFFICE OF PROFESSIONAL DISCIPLINE
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July 21, 1999

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OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

Roger P. Tarter, Physician
37 Adams Street
Mount Vernon, New York 10550

Re: Application Restoration

Dear Dr. Tarter:

Enclosed please find the Commissioner's Order regarding Case No. 99-65-60 which is in reference to Calendar No. 16954. 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

B
Gustave Martine

GUSTAVE MARTINE
Supervisor

DJK/GM/er

cc: Louis Freeman, Esq.
Freeman, Nooter & Ginsberg, Esqs.
233 Broadway, Suite 3201
New York, New York 10279

The University of the State of New York
Education Department



IN THE MATTER

of the

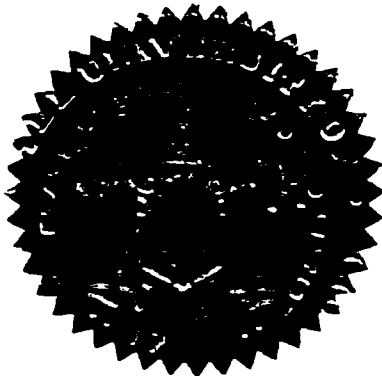
Application of ROGER P. TARTER
for restoration of his license to
practice as a physician in the State of
New York.

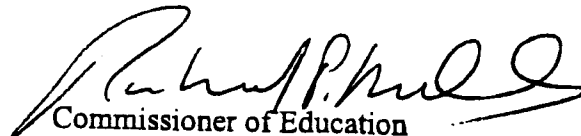
Case No. 99-65-60

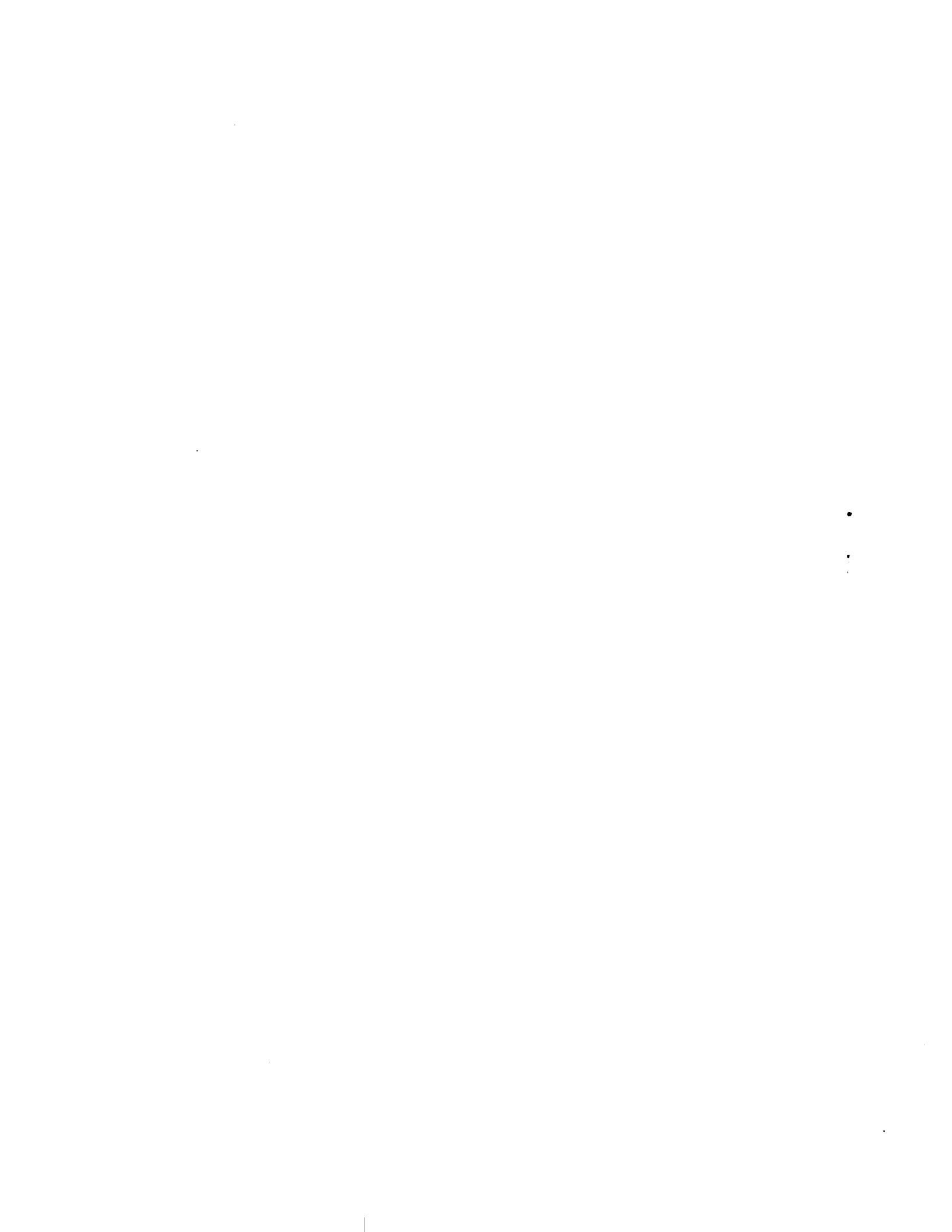
It appearing that the license of ROGER P. TARTER, 37 Adams Street, Mount Vernon, New York 10550, authorizing him to practice as a physician in the State of New York, was revoked by action of the Board of Regents on April 27, 1990, and he having petitioned the Board of Regents for restoration of said license, and the Regents having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 June 8, 1999, it is hereby

ORDERED that the petition for restoration of License No. 098351, authorizing ROGER P. TARTER 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 15th
day of July, 1999.



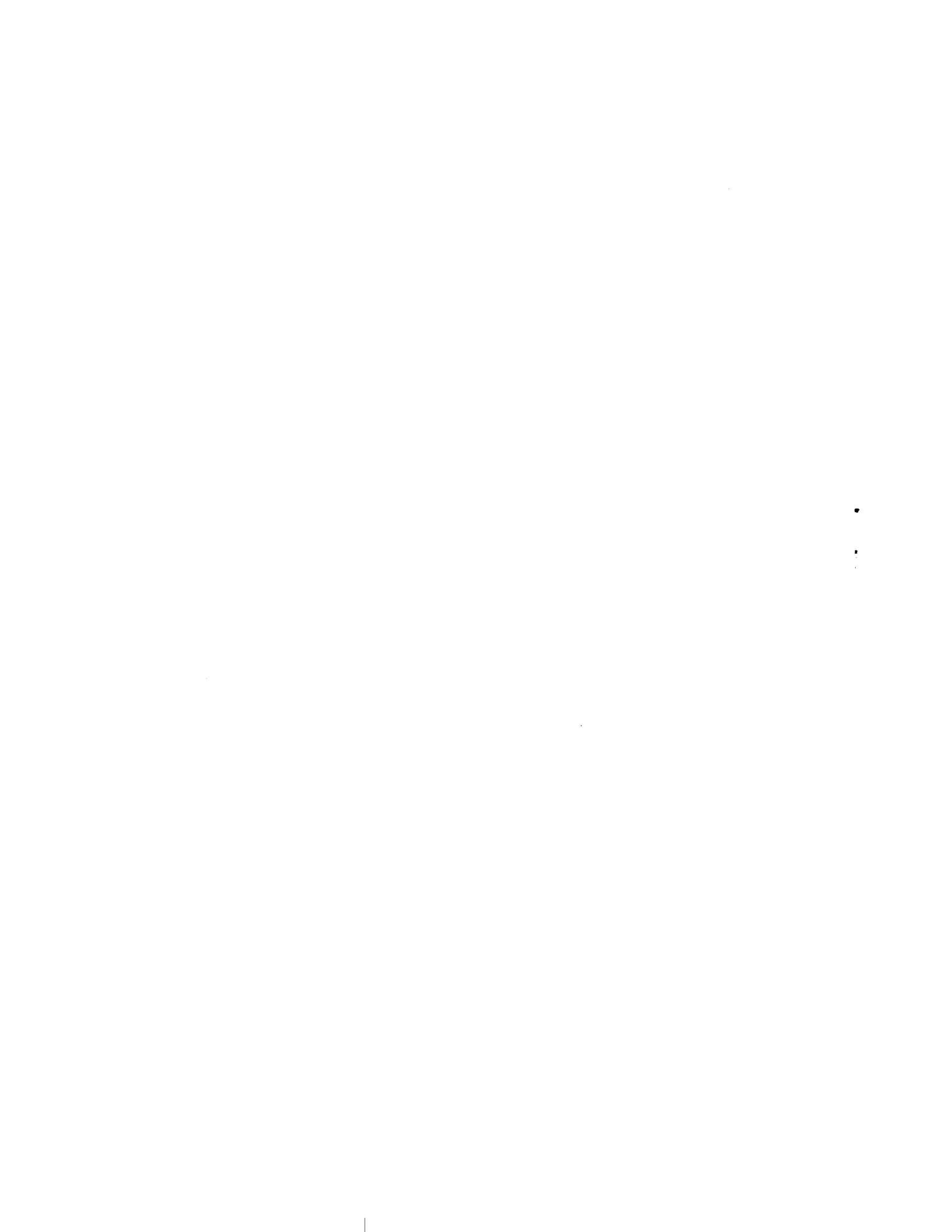

Commissioner of Education



Case No. 99-65-60

It appearing that the license of ROGER P. TARTER, 37 Adams Street, Mount Vernon, New York 10550, authorizing him to practice as a physician in the State of New York, was revoked by action of the Board of Regents on April 27, 1990, 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 June 8, 1999, it was

VOTED that the petition for restoration of License No. 098351, authorizing ROGER P. TARTER to practice as a physician in the State of New York, be denied.



Case number 99-65-60
February 16, 1999

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

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

Re: Roger P. Tarter

Attorney: Louis M. Freeman

Roger P. Tarter, 37 Adams Street, Mount Vernon, New York 10550, petitioned for restoration on his physician license. The chronology of events is as follows:

- 02/01/67 Issued license number 098351 to practice as a physician in New York State.
- 07/02/75 Charged with professional misconduct by Department of Education. (See "Disciplinary History.")
- 12/02/75 Hearing Committee of State Board for Medicine recommends revocation, revocation stayed and probation for five years.
- 01/26/76 Regents Review Committee recommends revocation, revocation stayed and probation for three years.
- 01/28/76 Board of Regents voted revocation, revocation stayed and probation for three years.
- 03/15/76 Commissioner's Order effective.
- 03/24/83 Charged with professional misconduct by Department of Health. (See "Disciplinary History.")
- 08/29/83 Hearing Committee of State Board for Professional Medical Conduct recommended revocation, revocation stayed and probation for one year.
- 01/03/86 Commissioner of Health recommended suspension, suspension stayed and probation for three years.

- 06/19/86 Regents Review Committee recommended suspension, suspension stayed and probation for three years.
- 07/22/86 Board of Regents voted suspension, suspension stayed and probation for three years.
- 08/26/86 Commissioner's Order effective.
- 06/07/89 Charged with professional misconduct by Department of Health. (See "Disciplinary History.")
- 09/19/89 Hearing Committee of State Board for Professional Medical Conduct recommended revocation.
- 12/11/89 Commissioner of Health recommended revocation.
- 03/30/90 Regents Review Committee recommended revocation.
- 04/27/90 Board of Regents voted revocation.
- 05/16/90 Commissioner's Order effective.
- 03/27/92 Board of Regents denies Application for Reconsideration.
- 04/01/92 Commissioner's Order effective.
- 01/07/93 Supreme Court, Appellate Division, dismissed CPLR Article 78 petition for review of determinations of Commissioner of Education.
- 08/17/95 Application for restoration submitted.
- 03/20/98 Peer Committee restoration review.
- 10/01/98 Report and recommendation of Peer Committee. (See "Report of the Peer Committee.")
- 02/16/99 Report and recommendation of Committee on the Professions. (See "Report of the Committee on the Professions.")

Disciplinary History. On July 2, 1975, the State Education Department charged Dr. Tarter with three specifications of professional misconduct. Based upon recommendations of a Hearing Panel of the State Board for Medicine and a Regents Review Committee, the Board of Regents found Dr. Tarter guilty of having been addicted to narcotic drugs, fraud and deceit in the practice of

medicine, and unprofessional conduct. The fraud involved Dr. Tarter's issuance of 94 prescriptions for narcotic drugs in the names of various individuals for his own use. The Board of Regents voted to revoke his license, but the revocation was stayed and he was placed on probation for three years and until discharged under the terms and conditions of probation. The Commissioner's Order was effective March 15, 1976.

On March 24, 1983, the Department of Health charged Dr. Tarter with three specifications of professional misconduct. The first specification charged him with unprofessional conduct based on the assertion that he refused to permit an inspection of his records by the Bureau of Narcotic Enforcement. The second specification charged him with unprofessional conduct based on the assertion that he violated a term of his probation requiring him to conduct himself in a professional manner. Based on the above charges, he was also charged with engaging in conduct which evidences moral unfitness to practice medicine. Based upon the recommendations of the Department of Health and a Regents Review Committee, the Board of Regents determined that Dr. Tarter was guilty of the first specification of the charges and not guilty of the third specification. The second specification was withdrawn. The Board of Regents voted to suspend Dr. Tarter's license for three years, but the suspension was stayed and he was placed on probation for three years under specified terms and conditions. The Commissioner's Order was effective August 26, 1986.

On June 7, 1989, the Department of Health charged Dr. Tarter with two specifications of professional misconduct. The first specification alleged that he practiced the profession while impaired and the second specification alleged that he was a habitual user of drugs and alcohol. A Hearing Committee of the State Board for Professional Medical Conduct sustained the first charge as to drugs, but not as to alcohol, sustained the second charge, and recommended that Dr. Tarter's license be revoked. The Commissioner of Health recommended revocation. A Regents Review Committee supported the findings and recommendations of the Department of Health and recommended revocation. The Board of Regents voted to revoke Dr. Tarter's license and the Commissioner's Order was effective May 5, 1990.

Dr. Tarter submitted an Application for Reconsideration to the Board of Regents. A Regents Review Committee recommended that his Application for Reconsideration be denied. The Board of Regents voted to deny Dr. Tarter's Application for Consideration and the Commissioner's Order was effective April 1, 1992. Dr. Tarter subsequently filed a CPLR Article 78 petition for review of the determinations of the Commissioner of Education that was dismissed by the Supreme Court, Appellate Division, on January 1, 1993. Dr. Tarter submitted his application for restoration on August 17, 1995.

Recommendation of the Peer Committee. (See attached Report of the Peer Committee.) The Peer Committee (Riggins; Boyce; Roman, Jr.) met on

March 20, 1998. In its report dated October 1, 1998, the Committee recommended that Dr. Tarter's application for restoration be denied.

Recommendation of the Committee on the Professions. On February 16, 1999, the Committee on the Professions (Duncan-Poitier, Ahearn, Muñoz) met with Dr. Tarter to consider his application for restoration. Mr. Louis M. Freeman, his attorney, accompanied him. Dr. Tarter presented the Committee with verification of his completion of 50 AMA PRA Category 1 Continuing Medical Education Credits (CME) completed December 1, 1998 through The New England Journal of Medicine CME Program, sponsored by the Massachusetts Medical Society.

The Committee asked Dr. Tarter to describe the events that led to the loss of his license. He responded that he was addicted to Demerol during 1969-70 and was so addicted that he started to "write lots of prescriptions" for his own use. He indicated that when he had difficulty obtaining vials, he would get tablets, dissolve them, and inject the solution into his vein. Dr. Tarter reported that one time he mistakenly injected the solution into an artery, his wrist and hand swelled up, and he had to have the affected area in his hand amputated. Dr. Tarter reported that he was subsequently hired by an old friend who was the current Director of the new Methadone Maintenance Treatment program at Montefiore Hospital. He indicated that at the time he had not been on drugs for six months. He reported that the Director told him that they didn't hire individuals, who had not been drug free for at least two years, but that he made an exception for him because he knew him.

Dr. Tarter said that he never used Demerol again and became director of the program. He indicated that from 1974 to 1978 he served as Director of the Comprehensive Drug Abuse Treatment program at Coney Island Hospital and got the job even though they knew about his background. He reported that he was also an Attending Physician in Medicine and Community Health Department. Dr. Tarter said that he was having marital problems at that time, finding that the drive from Rockland County was difficult, and "stopped that job." He told the Committee that in 1978 he began to drink. He said that while working at Columbia Presbyterian Hospital in 1988 he fainted in the clinic, and laboratory tests indicated cocaine in his system. He stated that he had used cocaine the weekend before the fainting incident and that that was the only time he had ever used that drug. He indicated that at the time he was suffering from insomnia and anxiety and was taking Halcyon and Benadryl. He said that you could easily become addicted to these drugs even though they were not narcotics. Dr. Tarter said that he was having problems with some members of his family and they contacted the Medical Society of the State of New York, which arranged for him to enter a treatment program at Harbors Chemical Dependency Recovery Program in Portsmouth, Virginia. Dr. Tarter stated that he left the facility against advice and started drinking again. He said, "I thought I could control anything," but found that he would start drinking soon after every time he stopped. Dr.

Tarter reported that he finally contacted the Physician Prescribed Educational Program at Syracuse University in 1994 for an evaluation to understand what was going on in his life.

The Committee asked Dr. Tarter what was different about him today. He responded that he finally joined AA in 1994 and a new world with new perspectives opened up for him. He reported that his sponsor was a doctor who guided him the first year. He said that it took six or seven months to "get into the AA mode," but he finally realized he had a problem and discovered new ways to look at things and interact with people talking about their lives and recoveries. Dr. Tarter stated, "I saw how guilty I was. I had blamed it on others, places, and things." He said that things are much clearer now and he understands whom he affected and that he devastated certain things around him. Dr. Tarter reported that he knows he's an alcoholic and will need to remain in recovery all his life. He said that he has been sober since 1994.

The Committee asked for his reactions to the Peer Committee's report. Dr. Tarter replied that it was hard for him to criticize "those intelligent people," but maybe they interpreted his over-exertion and his passion about who he was the wrong way. He said that maybe he was too sincere. Dr. Tarter said that their comments about his reeducation were true, but he had just finished a course in December 1998. He told the Committee that he reads, teaches courses in addiction, and teaches courses for counselors. He reported that he uses a lot of anatomy, biology, health, and disease information. The Committee asked Dr. Tarter what he thought the Peer Committee didn't hear. He responded, "It's hard to answer that. I was giving them all my feelings at that time."

The Committee asked Dr. Tarter if he understood the roots of his addiction. He replied that he had defects in his personality. He said that he was arrogant, felt superior, was angry, and quickly disappointed. He indicated that the high level positions he had went to his head. Dr. Tarter said that through AA he has learned coping mechanisms and has seen a psychotherapist every month. He stated that through AA you recognize the problems you've always had and learn how to cope with them. He said that you have your support system to help.

The Committee asked Dr. Tarter why he left the treatment program in Virginia. He answered that at the time he was in denial. He said that "it was not only what was going on there, " but "he was not really into it." He reported that he had a lot of problems at home, his daughter from Brazil was starting to attend college, and he had no money. Additionally, he reported that his sons were drinking, had no jobs, were living in his apartment, and taking money out of his account. Dr. Tarter told the Committee that there is a difference in the way he sees things now and the way he saw things then.

In response to the Committee's inquiry, Dr. Tarter explained that he withdrew a prior application for restoration because he was still drinking and not

acknowledging his substance abuse. He said that he didn't have an explanation for what he had done, was in Virginia, and his lawyer told him he had no defense. At the time of his second application for restoration, Dr. Tarter said that he was beginning to understand the revocation.

The Committee asked why Dr. Griffin did not know about the cocaine incident until the Peer Committee meeting. Dr. Tarter replied that he did report it to the psychiatrist but didn't know why he had not told Dr. Griffin. He said, "Perhaps it was denial or I didn't want to disappoint him." Dr. Tarter told the Committee, "I know I am not in a state of denial today. I'm honest, open-minded, and acceptant." He said, "The only way to be successful in life is to have a guiding light and I find that in AA. I know I can do it because I have surrendered and pray to my higher power constantly before any event. I know I can be very successful. I have a lot to give. I have a lot of plans."

The Committee asked about the medical evaluations he was conducting after his revocation. He said that he made no diagnoses and normally just checked weight, blood pressure, and history. He reported that sometimes "they allowed me to do more extensive exams when they couldn't get a physician." He said that a physician always reviewed what he did.

The Committee asked Dr. Tarter why he felt the Hearing Committee did not believe he was forthright with them. He replied that he was disappointed in their report and "couldn't understand how I could be so misrepresented. I've thought about what I said and how I said it." He told the Committee, "There is nothing I am trying to cover at this time. Everything is open." Mr. Freeman interjected that he could not explain the report either. He said that his partner attended the Peer Committee meeting but noted that Dr. Griffin still wouldn't change his recommendation even after hearing about the cocaine incident.

The Committee referred to Dr. Lucas' letter of March 17, 1998 in which he offered to employ Dr. Tarter and serve as his supervisor and asked Dr. Tarter what type of work he would do. He replied that Dr. Lucas was in the Army with him and was willing to offer him a position and be his monitor. He said that he was not sure what the position would be, but he had some interest in addictive medicine, perhaps teaching it.

The Committee asked Dr. Tarter how he could convince them that they would have no fear of public harm were his license restored. He replied, "Most important, I'm in AA. I have recognized that all is my fault because of my disease. I will have the disease for the rest of my life. I will need to depend on supportive mechanisms." He indicated that he sees the difference in himself. Dr. Tarter stated that he relies on the judgment of others, that others have confidence in him, that he feels good, and knows where he went wrong. He said, "If I know I'm slipping, I know what to do and who to speak to to save my life – everyone else's life." He indicated that he has come a long way for his "whole world – himself, his wife, his family, his children, and his profession."

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. The Committee believes it is not its role to merely accept as valid whatever is presented to it by the petitioner but to weigh and evaluate all of the evidence submitted and to render a determination based upon the entire record.

The Committee on the Professions (COP) concurs with the Peer Committee that Dr. Tarter "has not met the burden of putting forth such credible and sufficient evidence that would 'compel' a finding in his favor." The COP agrees with the detailed observations and rationale presented by the Peer Committee in its report and believes that the lingering questions regarding Dr. Tarter's honesty, credibility, sincerity, and rehabilitation are appropriate and substantiate the COP's concern regarding public safety were his license restored. Dr. Tarter is clearly progressing in the stages of his rehabilitation and has taken many recent steps in the right direction. However, as the Peer Committee noted, Dr. Tarter only recently admitted his use of cocaine and has not been completely straightforward in stating why he left the Portsmouth Program. The COP believes that Dr. Tarter's participation in AA is still at the intellectual level where he ably quotes the doctrine and uses the language, but has not completely internalized it. In the Committee's view, his words continue to be those of the lecturer rather than those of his inner self. Moreover, the COP notes the recent completion of CME hours in December 1998, but believes it is only a start toward Dr. Tarter's necessary reeducation.

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

Johanna Duncan-Poitier, Chair

Kathy A. Ahearn

Frank Muñoz





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

ROGER P. TARTER

REPORT OF
THE PEER
COMMITTEE
CAL. NO. 16954

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

-----X

Petitioner, ROGER P. TARTER, was authorized to practice as a
physician in the State of New York by the New York State Education
Department by the issuance to his of license No. 098351 in 1967.

PRIOR DISCIPLINARY PROCEEDINGS

On March 3, 1976, Calendar No. 1088, Petitioner's license to
practice as a physician was revoked, the revocation was stayed and
Petitioner was placed on probation for a period of three years.
Petitioner was found to have been addicted to Demerol and Methadone
from 1969 to 1971. Petitioner issued prescriptions for Demerol and
Methadone in the names of numerous patients in order to obtain
narcotics for this own use and also issued prescriptions for
narcotics at a time when he had no valid narcotic stamp in effect.

On July 22, 1986, Calendar No. 5548, Petitioner's license was

ROGER P. TARTER (16954)

suspended for three years, the suspension was stayed and Petitioner was placed on probation for three years. Petitioner had refused to permit an inspection of his records by representatives of the Bureau of Narcotic Enforcement.

On May 4, 1990, Petitioner's license to practice medicine was revoked pursuant to the Order No. 10553 of the Commissioner of Education. Petitioner was determined to be practicing while impaired by drugs and was habitually drunk or dependent. The Hearing Committee found that on May 3, 1988 Dr. Tarter had fainted while taking a patient's blood pressure. Petitioner was taken by ambulance to Columbia Presbyterian Hospital and the ambulance report noted that the Petitioner exhibited an "altered mental status". Petitioner was held overnight in the emergency room. Petitioner's son detailed his father's history of prior drug addiction and stated that his father had recently suffered a relapse. The toxicology screen for blood and urine tested positive for cocaine. Petitioner denied the use of cocaine but admitted to consuming alcohol on May 2, 1998.

The record reveals that Petitioner never attended the May 4, 1990 hearing. Petitioner applied for a reconsideration of the revocation but the reconsideration was denied. Petitioner also filed an Article 78 to review the determination of the New York State Education Department. The petition was denied and the revocation was upheld.

In 1993, Petitioner filed a petition for restoration of his license to practice as a physician but the Petitioner withdrew that

petition at a later time. During his interview with the investigator, petitioner did not accept the fact that his substance abuse problems are what caused his revocation but instead continued to maintain that his revocation was due to his failure to respond to the Department of Health. Petitioner did acknowledge that his alcoholism might have affected his judgement.

The Application

In August 1995, Petitioner submitted an application for the restoration of his medical license. The petition reads, in pertinent part, as follows:

1. Petitioner hereby requests that the Board of Regents restore his license to practice medicine in the State of New York. On May 4, 1990 the Commissioner of Education issued Order #10553 revoking the Petitioner's medical license effective May 11, 1990 based upon two charges of unprofessional conduct under New York State Education Law.
2. More specifically, petitioner was found guilty of practicing medicine while impaired by drugs under Education Law section 6509(3) and being habitually drunk or dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects under Education Law section 6509(4).
3. An administrative hearing was held before a hearing committee of the State Board for Professional Medical Conduct on August 2, 1989. The hearing was held in the Petitioner's absence because the Notice of Hearing and Statement of Charges were never received by the Petitioner. According to the Department of health, attempts were made to serve the Petitioner in July of 1989. Petitioner had notified the Department of Health of a change in address effective March 1989; however, the process server was sent to the former address to serve the Notice of Hearing and the Statement of charges. The copy that was mailed by the process server was returned by the U.S. Post Office to the Department of Health with a notation that the forwarding order

had expired. The process server was never given the new address as reported by the Petitioner in March 1989. Additionally, although the petitioner was at that time a participating provider in the New York State Medicaid Program, the Department of Health made not attempt to access the Petitioner's enrollment files to obtain his current address. Petitioner was afforded no opportunity to personally respond to the factual allegations underlying the Hearing Committee's findings. In reaching its findings and conclusions, the Hearing Committee relied solely upon uncorroborated hearsay evidence.

4. In February 1990, the Regents Review Committee held a hearing in absentia and in March of 1990, they accepted the findings of the Commissioner of the Department of Health. Petitioner's license was revoked by the Commissioner of Education in May of 1990.
5. The facts underlying the revocation and charges of professional misconduct are as follows. In May of 1988, while working in his medical office located in New York City, Petitioner collapsed and was taken to Columbia Presbyterian Hospital. Toxicology testing was conducted. Both Petitioner's blood and urine were tested with his blood-testing positive for cocaine. A physician at Columbia Presbyterian notified that New York State Medical Society of the test results. At the urging of the New York State Medical Society, Petitioner entered a drug/alcohol rehabilitation program at a Psychiatric Center located in Portsmouth, Virginia. He stayed in Portsmouth from October of 1988 until December of 1988.
6. As set forth more fully below, since the revocation of his medical license Petitioner has successfully participated in the Medical Society's Committee on Physician's Health random drug screening program, he has undergone therapy, joined and participated weekly meeting in both Alcoholics Anonymous and Caduceus (AA for physicians). Petitioner currently attends four to five weekly meetings through AA and/or Caduceus and he has advanced from twice weekly group therapy sessions into a more advanced group therapy sobriety program meeting only once a week. When he is not attending meetings and working on his own rehabilitation programs, Petitioner teaches colleges level courses on addictions....

ROGER P. TARTER (16954)

7. Petitioner received his Bachelor's of Science degree in 1953 from Iona College located in New Rochelle, New York. From 1953 to 1955 Petitioner was a medical laboratory specialist with the United States Army Medical Service Corp. Between 1956 and 1958 Petitioner attended Long Island University in Brooklyn as a candidate for a Masters degree in Biology. From 1959 to 1964, Petitioner studied at the University of Bologna in Bologna, Italy receiving a doctorate in Medicine and Surgery in 1964.
8. In 1964 Petitioner began a rotating internship at Mt. Vernon Hospital in Mount Vernon, New York. In 1965, Petitioner successfully completed the ECFMG tests in the United States. He received his New York State medical license in 1967 and finished one and one half years of his residency in Anatomical Pathology at Mt. Vernon Hospital. He began working as Assistant Pathologist and Assistant Medical Examiner for the County of Westchester at Grasslands Hospital in Valhalla, New York. He left this position in December of 1969 after completing four years of training in Pathology.
9. From 1970 until 1978, Petitioner worked as Medical Director for methadone maintenance programs at NARCO Freedom, Addiction Research and Treatment Corp., Montefiore Hospital, Morrisana (sic) Hospital and Coney Island Hospital. In 1978, Petitioner went into the private practice of medicine.
10. From 1979 to 1981, Petitioner worked for the New York City Health Department in its Prison Health Services and served as its medical director from 1980-1981. In 1982, Petitioner became the Medical Director for both H.I.R.E., a community clinic in Brooklyn, and the Bronx Medical and Dental Center. From 1982 to 1990, petitioner operated a general practice in family medicine in the Bronx. From 1984 to 1989, Petitioner served as a Major in the United States Army Medical Corp. Reserves (as chief of Professional Services, 1985-1988).
11. Petitioner has been an attending physician at the Jewish Home and Hospital for the Aged, Montefiore Hospital, House of the Holy Comfort, Coney Island Hospital, Morrisania Hospital and Mainmonedes (sic) Hospital. Petitioner has had fellowships and training in the following: Second International Training Seminar; American Society of Acupuncture

and Chinese Medicine; Armed Forces Institute of Pathology, Participant at 1968 AMA convention; Cancer International Research Fellowship in cancer research at Sloan Kettering Institute.

12. Petitioner has co-published several medical articles (which are available on request). He has been a member of the following organizations: Iona College Institute of the Arts Board of Trustees, Iona College Lay Board of Trustees, Congress of Racial Equality Conference, American Academy of Microbiologists, Honorary Police Surgeon for the City of Mt. Vernon, American Cancer Society, American Society of Public Health Labs, National Foundation of Concerned Drug Abuse Workers, National Association of Medical Examiners, Kiawanis Club, and Alpha Phi Alpha Fraternity....
13. From 1991 until about 1993, the Petitioner was employed by Portomedic located in Hartsdale, New York. Portomedic provides physician and paramedic physical examinations and history taking, including performing diagnostic screening tests (chemical screening tests, electrocardiograms etc.) for all of the major life insurance companies. During the period covering 1991 to 1993, Petitioner personally performed approximately five hundred insurance examinations for Portomedic during the period covering 1991-1993.
14. From 1993 to 1994 the Petitioner earned 150 continuing medical education credits by successfully completing self instructional continuing medical education program sponsored by the Postgraduate Medical Institute of Waltham, Massachusetts and the New England Journal of Medicine. Appended hereto as Exhibit "1" are copies of the certificates of completion earned by the Petitioner.
15. In November of 1994 Petitioner was conferred the degree of Juris Doctorate from Bernadean University Law School. Appended hereto as Exhibit "2" is a copy of the Bernadean University Diploma.
16. Petitioner currently holds an appointment as adjunct faculty at Mercy College located in Dobbs Ferry, New York. He teaches college level courses in Narcotics, Alcohol & Drug Abuse, Psychobiology, and Human Anatomy and Physiology....
17. Petitioner recently attended the Annual Medical-

Scientific Conference, sponsored by the American Society of Addiction Medicine (ASAM), where he earned 9.5 credit hours in Category 1 of the Physician's Recognition Award of the American Medical Association. Appended hereto as Exhibit "5" is a copy of the ASAM certificate of completion....

18. Since the revocation of his medical license, Petitioner has made diligent efforts to rehabilitate himself.
19. Beginning in about May of 1994, Petitioner enrolled and participated in Phase I of the Physician Prescribed Education Program sponsored by the State University of the New York's College of Medicine. For one week, Petitioner underwent intense clinical, physical, and psychological evaluations. Thereafter, Petitioner entered the medical Society's Committee on Physician's Health Program. In about September of 1994, petitioner began a combined program of intense group therapy and random drug/alcohol testing. From September of 1994 until March of 1995, Petitioner attended group therapy sessions twice a week at the Westchester Treatment Center, White Plains, New York. These sessions were conducted by Dr. Raymond Griffin, Clinical Director of the Westchester Treatment Center and Madeline Venuer, a Certified Group Therapist. In March of 1995, Petitioner was moved into a more advanced group session which meets once a week.
20. Petitioner also joined Alcoholics Anonymous (AA) in September of 1994. Petitioner attends four to five weekly meetings in his home group located in Bronxville, New York and he meets regularly with the physician group known as Caduceus in White Plains, New York every Friday. In ninety days, Petitioner completed ninety meetings and three of the twelve steps underlying the AA program. At the time of this petition, Petitioner has completed the sixth step of the twelve-step program.
21. Petitioner continues to participate in the urine testing program, AA, Caduceus and group therapy. He has abstained from all mood altering substances for more than one year.
22. Over the last year, Petitioner has dedicated his life to his own rehabilitation and to teaching others about the adverse effects of alcohol and

drug addictions. He is currently teaching courses in addiction at Mercy College and, if his medical license is restored, he would like to work with the Veterans Administration Hospital in its outpatient detoxification clinic or in the liver disease research program at the Veterans Administration Hospital.

23. If his medical license is restored, Petitioner is able and willing to participate in any retraining program that may be deemed necessary by the Board of Regents to make up for his inability to practice medicine over the last five years.
24. Petitioner urges the Board to consider that he is not interested in resuming a private medical practice if his medical license is restored. Rather, he is more interested in pursuing a career in a hospital or clinic setting where he could devote his time to providing medical care and treatment to others afflicted with drug and or alcohol addictions. He has recognized that the quality of his own life has greatly improved as a result of his sobriety. For the Petitioner, practicing medicine has been a life long dream. He devoted many years of his life to accomplishing that goal and he is willing to do anything to regain the privileges granted to him when he was conferred a medical license by the State of New York. The quality of the medical care and treatment he provided has never been an issue. He lives for the ability to help alleviate the pain and suffering of others.
25. The Board of Regents can be well assured that the events leading to the revocation of the Petitioner's license will not be repeated. as set forth above, Petitioner fully intends to continue the therapy and substance abuse programs he joined in 1994 and he is willing to continue to participate in the urine testing program as long as deemed necessary by the Board of Regents. Again, Petitioner is willing to fulfill any conditions imposed by the Board of Regents as a condition to the restoration of his medical license.
26. Included with this petition are supporting affidavits from Petitioner's therapists, his colleagues, friends and personal acquaintances who fully support his application for the restoration of his medical license. These individuals have attested to the fact that the Petitioner has made

significant progress in his recovery, he is known to be of good moral character and he has dedicated his life to serving others as a medical doctor. Additionally, in making this application for restoration of his medical license, Petitioner has the full support of his wife and family who know from first hand, personal experience that he will never again feel like a whole person, if his ability to practice medicine is not restored.

27. Finally, the Board of Regents is asked to consider the following as mitigating circumstances going to the revocation of his medical license. Petitioner was never really afforded an opportunity to be heard or to confront his accusers at the time his medical license was revoked. While Petitioner does not wish to relitigate the underlying allegations leading to his revocation, he does ask that the Board consider that he never really had an opportunity to be heard in refutation of these serious allegations.

THE INTERVIEW

Petitioner was interviewed on October 1, 1996 in connection with his present application. He provided the Department with information about his activities since the last interview. Petitioner detailed his continuing education and his continuing commitment to remaining sober. Petitioner has been a member of the Committee for Physician's Health since August 1994 and a member of Alcoholics Anonymous since 1994. His program includes psychotherapy and random urine testing. Petitioner admits that his alcohol problem contributed to his revocation. Petitioner believes that he is now in control of his life and wishes to be able to practice his profession.

THE MEETING

On March 20, 1998, this meeting was scheduled to give the Peer Committee an opportunity to review the petition in this

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matter. Petitioner was present and was represented by Thomas Nooter, Esq. The Department was represented by Sherri B. Thompson, Esq. Nina Tornabene, Esq. acted as the legal advisor to the committee.

Petitioner reiterated and elaborated upon his previously submitted application. Petitioner described his educational background and training. In 1967, Petitioner stated that he was a second year resident in forensic pathology and was appointed to the medical examiner's office in Westchester County. At the same time, Petitioner started a part-time private practice in General Medicine at night. After a while, the pressures and stress of a full-time residency and a part-time private practice began to effect his health. Petitioner, who already had duodenal ulcers, began to suffer severe and painful attacks together with insomnia. Petitioner self-administered morphine. The pain went away and he slept. Petitioner describes that as the beginning of his addiction to Demerol. Since he no longer had any more morphine, Petitioner began to administer Demerol to himself for insomnia. Petitioner then found that he needed to administer Demerol to himself in the morning because he was experiencing withdrawal. Finally, he began administering the medication in order to feel good. In 1971, Petitioner accidentally injected himself with Demerol in an artery which resulted in the formation of an embolus and which eventually resulted in the amputation of two and one half fingers.

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Petitioner's drug abuse came to the attention of the authorities and resulted in disciplinary action being taken against his license. Petitioner stated that his license was revoked, the revocation was stayed and that he was placed on probation for a period of three years.

Petitioner then stated that he did not work for a while but recuperated at home. After his recuperation, petitioner was able to secure work at Montefiore Hospital in the Methadone Treatment Program, thanks to a friend who took a chance on him. Petitioner stated that he successfully ran the program for over two and one half years. Petitioner stated that he also became the part-time medical director for the Addiction Research and Treatment Corporation in Brooklyn, NY. Petitioner was able to secure a variety of positions in the drug abuse treatment area throughout the 1970's. Petitioner worked as an Assistant Attending in Pathology and in Internal Medicine at Maimonides Hospital from 1974-1978.

In 1978, Petitioner was employed by New York City Health Department, Bureau of Prison Health Services. After one and a half years Petitioner states that he became the Medical Director of Prison Health Services and held that position from April 1980-1981.

In 1983, Petitioner returned to the military reserves and became Chief of Professional Services and held that position until he left in 1990. While he was in the service, Petitioner

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had a private practice in the Bronx and also worked at two nursing homes in the Bronx.

Petitioner states that in 1988 he was again experiencing insomnia and began to take Halcion and Benadryl. Petitioner stated that he was also drinking at the time. Petitioner stated that it was the incident with the Halcion that led to the fainting incident that eventually sent him to Columbia Presbyterian Hospital. Petitioner states that the hospital found traces of substances in his urine and that Petitioner's son told them that his father "probably had a relapse". Petitioner was advised and consented to go to Virginia Harbors treatment clinic in Portsmouth, Virginia. Petitioner states that he left the program without permission because of tremendous problems with his sons and because of the illness of his father. Petitioner states that he then went to the Dominican Republic and stayed there from December 1988 until February 1989.

In February 1989, Petitioner returned to New York, called to check on the status of his license and re-opened a private practice. Petitioner later received word from Medicaid that his license had been revoked.

Petitioner states that he began to take steps to make an application for the restoration for his license. Petitioner states that he did not know what to do without a license and he was still drinking. Petitioner began to work for Portomedic in Hartsdale taking histories, taking blood and urine samples and doing electrocardiograms on male patients. Petitioner states that

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this position did not require a medical license. Petitioner states that any history or physical that he took was always co-signed by a doctor who was there with him. Petitioner resumed his education by studying for his law degree from an external program in California. Petitioner received his law degree in 1994. In 1992 Petitioner applied for the restoration of his license but later withdrew it when someone pointed out to him that he had done nothing towards his recovery and in fact was still drinking. Petitioner states that he made a New Years Resolution never to drink again and that he kept that resolution.

Petitioner realizes now that he still had not come to grips with his addiction. Petitioner still believed that his drinking was not a problem but rather something that he could control. In August 1994, Petitioner sought help from the Committee for Physician's Health. Petitioner began to see Dr. Griffin, began to attend AA and enrolled in an intensive program of group therapy. Petitioner stated that the program benefited him by helping him recognize his illness and that he will always be in recovery. Petitioner states that he was randomly monitored for drug and alcohol abuse. For the past four years Petitioner has been going on a weekly basis and he has always been clean.

Petitioner states that once he was in AA an entire world opened up for him. He began teaching a course in addiction at Mercy College and that he now teaches many courses in the areas of psychology, natural sciences and criminal justice. Petitioner

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was inducted into the National Honor Societies of Psychology, Biology and Criminal Justice.

Petitioner has taken the CME home examination in 1994 and 1995 and has continued to read and to teach. Petitioner states that he is scheduled to take another exam in March 1998. Petitioner has also submitted a report from Dr. Kruger concerning his fitness to return to work.

Petitioner stated that if his license is restored he will continue teaching and has been offered a position by Dr. Lucas who has a practice on 103rd Street and Columbus Avenue. Dr. Lucas has also offered to monitor Petitioner.

The Department questioned the Petitioner about statements he had made to the investigator, Mr. Mead, in 1993. Petitioner admitted telling Mr. Mead that the tests which showed positive for cocaine were false but admits now that the tests were correct. Petitioner also admits that he told the investigator that he left Portsmouth facility because he was having a difficult time there because all of the staff was homosexuals. Petitioner denies that he was asked to leave the facility because he was continuing to drink and was encouraging other patients to drink. Petitioner does admit that towards the end of his stay he had started to drink.

Petitioner admitted that in his petition he made no mention of his prior disciplinary history. Petitioner believes that he may have been in denial. Petitioner admitted to the panel that he had ingested cocaine given to him by a friend the weekend before

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the fainting incident. Petitioner states that that weekend was the only time he had used cocaine and that he did not bring his use of cocaine up with Dr. Griffin because he had only used it that one time.

In response to questions by the Department, Petitioner stated that he did tell Dr. Krueger that he had ingested cocaine even though Dr. Krueger's report makes no mention of it. Petitioner stated " Yes, I noticed that and I'm willing to contact him right now".

Petitioner was asked about the extent of his addiction by the panel and was asked why he wanted to have his license restored. Petitioner stated that he is a physician and that he has a lot to give and that he wants to end his life as a physician. Petitioner agreed with a panel member's description that losing his license was like losing a part of himself and that he would have gone into any treatment program to get his license back. Petitioner admits that when he entered the program it still took a while to break through to him. Petitioner entered the program because he believed that he would not get his license back unless he entered a "formal program".

Dr. Raymond Griffin, the clinical director of the outpatient substance abuse program in White Plains testified in support of the petition for the restoration of Dr. Tartar's license. Dr. Griffin has treated Petitioner since September 1994 when he entered the program for impaired physicians. Petitioner was in extreme denial when he first entered the program. Petitioner was

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unable to admit to himself and to others the full extent of his drug problem. Petitioner did not consciously connect the amputation of his fingers to his drug problem. It took over eight months for Dr. Griffin to be able to break through to him. Dr. Griffin believes that Petitioner has a solid recovery today. Dr. Griffin believes that Petitioner's life is well balanced and that he has a good support system in place. In response to questions, Dr. Griffin stated that Petitioner's has been addicted to drugs for about 15 - 20 years.

The Department takes no position on the petition but points out some inconsistencies in the testimony and the fact that Petitioner has not taken any continuing education credits in 1996 and 1997.

PEER PANEL RECOMMENDATION

The mandate of a peer panel sitting in a restoration proceeding before the State Education Department is to determine whether or not, using, among other things, the generally acceptable criteria of remorse, reeducation and rehabilitation, petitioner has met the burden of submitting such evidence as would compel the exercise of discretion in [petitioner's] favor, Greenberg v. Board of Regents of the University of New York, 176 A.D.2d 1168, 575 N.Y.S.2d 608, 609.

The restoration of a professional license is intended only to apply to exceptional cases where the merit of [petitioner] is clearly established to the satisfaction of the Board of Regents. Reddick v. Board of Regents of University of State of New York,

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58 Misc.2d 970, 297 N.Y.S.2d 339. Restoration of licensure ... is not an absolute right, and may only be granted when [petitioner] has sustained the burden of clearly establishing that [petitioner] is entitled to such restoration. Nisnewitz v. Board of Regents of University of State of New York, 95 A.D.2d 950, 464 N.Y.S.2d 287.

In the instant matter, it is the unanimous finding and determination of this panel that petitioner has not met the burden of compelling the "exercise of discretion" in his favor.

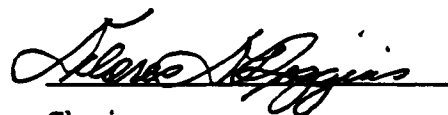
We do not believe that Petitioner has come to grips with the full extent of his wrongdoing. Petitioner has been an addict for almost 20 years, has relapsed numerous times and has only maintained his sobriety for the past three and one half years. In many ways, Petitioner is still in denial about the full extent of his addiction. Petitioner only admitted to his use of cocaine at this peer meeting. Prior to the meeting, Petitioner was maintaining that the tests results, which showed the presence of cocaine, were incorrect and that it was the combination of sleeping pills and drugs which caused the fainting incident. Petitioner has never leveled with Dr. Griffin about his cocaine use and there is no mention of his use of cocaine in the report submitted by Dr. Krueger. Petitioner was not honest with the panel about his reasons for leaving the Portsmouth Program. In addition to the reservations we have about Petitioner's honesty, we find the Petitioner's re-education efforts to be woefully inadequate. Petitioner has not taken any continuing education

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credits since 1995 and we find that teaching is not an appropriate substitute for continuing education. This panel does not believe that Petitioner's rehabilitation is sincere. Petitioner admits that he would have done anything, would have enrolled in any program in order to get his license back.

For all the reasons stated above, we find that the Petitioner has not met the burden of putting forth such credible and sufficient evidence that would "compel" a finding in his favor. Therefore, we unanimously recommend to the Board of Regents that the instant petition for the restoration of licensure to practice as a physician in the State of New York be denied.

Respectfully submitted,
Delores Riggins, Chairperson
John Boyce, M.D.
Stanford Roman, Jr., M.D.

 10/1/98
Chairperson Dated