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MEDICAL CONDUCT

November 12, 1999

Dan Umanoff, Physician
163 Hendrickson Avenue
Rockville Centre, New York 11570

Re: Application Restoration

Dear Dr. Umanoff:

Enclosed please find the Commissioner's Order regarding Case No. 99-142-60 which is in reference to Calendar No. 17546. 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

DJK/GM/er

cc: Jeremiah Gutman, Esq.
Levy, Gutman, Goldberg and Kaplan
275 Seventh Avenue
New York, New York 10001

The University of the State of New York
Education Department



IN THE MATTER

of the

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

Case No. 99-142-60

It appearing that the license of DAN UMANOFF, 163 Hendrickson Avenue, Rockville Centre, New York 11570, authorizing him to practice as a physician in the State of New York, was revoked by action of the Administrative Review Board for Professional Medical Conduct on September 2, 1992, and he having petitioned the Board of Regents for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 September 17, 1999, it is hereby

ORDERED that the petition for restoration of License No. 134467, authorizing DAN UMANOFF 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
day of November, 1999.


Commissioner of Education

Case No. 99-142-60

It appearing that the license of DAN UMANOFF, 163 Hendrickson Avenue, Rockville Centre, New York 11570, authorizing him to practice as a physician in the State of New York, was revoked by action of the Administrative Review Board for Professional Medical Conduct on September 2, 1992, and he having petitioned the Board of Regents for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 September 17, 1999, it was

VOTED that the petition for restoration of License No. 134467, authorizing DAN UMANOFF to practice as a physician in the State of New York, be denied.

May 17, 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: **Dan Umanoff**

Attorney: Jeremiah Gutman

Dan Umanoff, 163 Hendrickson Avenue, Rockville Centre, New York 11570, petitioned for restoration of his physician license. The chronology of events is as follows:

- | | |
|----------|--|
| 05/19/78 | Issued license number 134467 to practice medicine in New York State. |
| 07/27/89 | Department of Health accepted Temporary Surrender of License and Registration. |
| 05/17/91 | Pled guilty in United States District Court, Eastern District of New York, to Acquiring Possession of a Controlled Substance by Fraud in violation of Title 21, United States Code, Section 843(a)(3). |
| 03/11/92 | Charged with professional misconduct by the State Department of Health. (See "Disciplinary History.") |
| 05/26/92 | Hearing Committee of the State Board for Professional Medical Conduct determined revocation. |
| 09/02/92 | Administrative Review Board for Professional Medical Conduct sustained revocation. |
| 04/17/96 | Petition for restoration submitted. |
| 09/16/98 | Peer Committee restoration review. |
| 01/02/99 | Report and recommendation of Peer Committee. (See "Report of the Peer Committee.") |
| 05/17/99 | Report and recommendation of the Committee on the Professions. (See "Report of the Committee on the Professions.") |

Disciplinary History. (See attached reports of the Hearing Committee of the State Board for Professional Medical Conduct and the Administrative Review Board for Professional Medical Conduct.) On July 27, 1989, Dr. Umanoff temporarily surrendered his license and registration to the Department of Health and stated that he was "incapacitated for the active practice of medicine due to abuse of Hycodan." On March 11, 1992, the Department of Health charged Dr. Umanoff with professional misconduct based upon his guilty plea and conviction on May 17, 1991 in the United States District Court for the Eastern District of New York of unlawfully obtaining a controlled substance for his own use (Hydrocodone) through misrepresentation, fraud, deception and subterfuge. On May 26, 1992, a Hearing Committee of the State Board for Professional Medical Conduct determined, that Dr. Umanoff's license should be revoked based on his long history of substance abuse, his felony conviction while his license was temporarily suspended, his relapses, and a poor long-term prognosis for recovery from substance abuse. Dr. Umanoff appealed the decision and an Administrative Review Board for Professional Medical Conduct sustained the Hearing Committee determination of revocation, effective September 2, 1992.

On April 17, 1996, Dr. Umanoff submitted an application for restoration.

Recommendation of the Peer Committee. (See attached Report of the Peer Committee.) The Peer Committee (Harris, Boyce, Robinson) convened on September 16, 1998. In its report dated January 2, 1999, the Committee recommended unanimously that Dr. Umanoff's application for restoration be denied.

Recommendation of the Committee on the Professions. On May 17, 1999, the Committee on the Professions (Duncan-Poitier, Ahearn, Muñoz) met with Dr. Umanoff to consider his application for restoration. Mr. Jeremiah Gutman, his attorney, accompanied him.

The Committee asked Dr. Umanoff to explain why he lost his license. He replied that he had been addicted to Hycodan for about three years and had written prescriptions for the drug, "for the most part under my own name." He reported that somehow the Department of Health discovered what he was doing, but that he was not sure how they found out. The Committee asked Dr. Umanoff if such drug use would be a problem for a physician practicing medicine. He replied that there would be a potential for making a bad decision. In response to the Committee's inquiry, Dr. Umanoff said that he was not aware of any bad decisions that he made while practicing medicine.

Dr. Umanoff told the Committee that he has been in compliance with the expectations of the Committee for Physicians Health Program for Impaired Physicians since 1992. He reported that he has participated in urine screening, psychological evaluations, and all else that was asked of him. He said that he was "not a psychopath or mental case, or the like." Dr. Umanoff indicated that he discovered it was not as difficult to stop taking drugs as he once believed.

Dr. Umanoff said that he was in and out of rehabilitation eight times before his current sobriety. He reported that in 1978 he attempted rehabilitation on his own and had a relapse in 1986 when he took a narcotic analgesic after mouth surgery. Between 1986 and 1990, he obtained controlled substances for his own use by writing improper prescriptions. When Dr. Umanoff was finally arrested, he had heroin in his possession. Dr. Umanoff told the Committee that after being confronted by the Department of Health, he immediately went into a detox program. He said, "I thought it would be easier for me then. I was out of the closet." He reported that his partners and staff in the practice "all reacted very harshly to me." He said, "They kicked me out of the practice immediately. My wife did her thing. I was faced with a lot of ostracism." He indicated that those actions made it difficult for him to get clean and that he didn't get very good help at the detox centers. Dr. Umanoff indicated that he would try to go "cold turkey," but always went back to drugs. He told the Committee that he was not making excuses, but realizes that at that time he was still in withdrawal.

The Committee asked how it could be assured that he would not relapse again and possibly harm patients. Dr. Umanoff reiterated that he has been taking random drug screenings for seven years and complying with the expectations of the Committee on Physicians Health and reported that he has satisfied the probationary conditions of his court-imposed sentence. He said that he would continue urine screenings every day if someone would pay for them. Dr. Umanoff stated, "I would just as soon not to be able to write prescriptions for narcotics," and indicated that he was sure he could work out such a practice arrangement with another physician. He said that no addict could predict the future, but he was fully committed to maintaining his recovery. He indicated that he no longer takes any prescriptions for narcotics. Mr. Gutman reported that Dr. Umanoff would soon publish a book on addiction. He said that his client has studied the addiction process and is more likely to control himself.

The Committee asked Dr. Umanoff to describe what was different about himself now as a person. He replied that he has learned that "addiction is unconscious" and that "control is outside of myself." He said that there is a difference between who he was and who he is today. He indicated that his surrender of control is no longer a surrender to a higher power, based on rules and rituals. Dr. Umanoff told the Committee that his first eight years of recovery were based on the superstitions of Alcoholics Anonymous (AA). He said that he now works very closely with his sponsor, to whom he has surrendered, and has discovered what essential parts he needs from the program.

The Committee told Dr. Umanoff that it picked up a sense of anger, hostility, and blaming others from him. He answered, "It's not true. I did what I did. I'm scared, not angry. I feel naively connected. A lot of things did happen to me." He said that he didn't take responsibility for the world's reactions to him – those of his partners, his wife, and detox establishments, all of whom failed to deal with his problem appropriately. Dr. Umanoff indicated that he had nothing against people but did have "a lot against society." He said that addiction had a part in making the decisions he made. He stated that although he was not complaining, he had been through a lot of punishment. He told the Committee that he felt he should not be punished for what he didn't do. He indicated

that he had let people down and said, "People do kick you when you're down." Dr. Umanoff reported that his partners knew he was an addict in recovery. He said, "I love myself. I know what I did. To the best of my ability, I will never repeat that."

The Committee asked Dr. Umanoff to discuss his current support system. He replied that his 10-year-old daughter was aware of his situation, his girlfriend was very supportive, and he has had the same sponsor in AA since 1994, the one to whom he surrendered. He also discussed his relationship with his parents, both before and after his father's death.

Regarding the report of the Peer Committee, Dr. Umanoff said, "I was flabbergasted when I got the report. I'm so sorry for any misinterpretation I might have given to the Peer Panel." He said that he only answered questions that were brought up and "wouldn't bring up any of that stuff myself." He indicated that his past was behind him and that it had been 10 years since he had been able to talk to someone "about this stuff." Dr. Umanoff said that he was in pain and he picked up drugs. He stated, "Stuff that hurts you can stimulate your need for drugs." He indicated that no person made him use drugs.

Dr. Umanoff told the Committee members, "I need your support. I need to finish this episode. I need to be restored. The process keeps all these things alive." The Committee asked what would happen if his license was not restored. He responded that it was very spiritual and "resolution of this issue is a contentious issue." Dr. Umanoff said, "I'm a human being. I have failings. I've had to put up with reopening wounds when I felt I had closed them." He reported that life was now absolutely fine except for getting his license back. In response to the Committee's inquiry, Dr. Umanoff said that the restoration process should help "a productive physician recover so that he could do the job he can do." He suggested that DOH address all newly licensed physicians, inform them that 5% will become addicted, and develop a program to help those addicted recover while they do not practice. He told the Committee that no one came to him and said that they would work with him. Instead, he said, "They stigmatize you. They blow your confidence." Dr. Umanoff discussed his reeducation efforts and told the Committee that one hospital told him he could not make rounds if he was not licensed.

Following the meeting, Dr. Umanoff sent the Committee documentation of his completion of 100 CME credits and a letter, dated June 3, 1999, explaining why he felt he was safe for the public and why he felt he was needed by the public. The Committee considered this supplemental material.

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) notes and commends Dr. Umanoff for his eight years of sobriety and his efforts toward maintaining that sobriety, including his long-term relationship with his sponsor and the drug screening to document his sobriety. The COP believes he continues to move in the right direction, but agrees with the Peer Committee that he has not yet presented a compelling case for the restoration of his license.

Some important pieces are still missing at this point. Dr. Umanoff demonstrated that he is able to intellectually understand the elements of addiction and takes responsibility for his actions. However, the COP finds that the answers he provided to their questions did not demonstrate that he has wholly embraced and incorporated that understanding into his daily life. For example, he continues to lay some blame for his addiction on others, including society's ineffectiveness in dealing with addicts. He harbors obvious resentment and anger for his former partners and wife for their role in his problems. He continues to imply that the State should not have revoked his license despite his long history of addiction. He is unable to accept or understand the ostracism resulting from his misconduct. Thus, Dr. Umanoff still has emotions and thoughts about his addiction that conflict with and undermine his contention that his problems are a thing of the past. Similarly, the COP notes, and agrees with the observation of the Peer Committee that Dr. Umanoff did not demonstrate any recognition that his actions might have been harmful to the public and the concern that he might not yet be able to function in a stressful situation he might not be able to control. The COP believes that he has presented no compelling evidence to demonstrate that these factors will not hinder him from moving on and fully recovering. Dr. Umanoff told the COP that he needs his physician license to "complete the cycle." The COP believes, however, that Dr. Umanoff himself needs to complete the cycle before his license can be restored. Only then can there be some assurance that the public would not be in danger were his license restored.

Therefore, after a complete review of the record, including the supplemental material submitted by Dr. Umanoff and its meeting with him, the Committee on the Professions unanimously concurs with the recommendation of the Peer Committee that Dr. Umanoff'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

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In the Matter of the Application of

DAN UMANOFF

**REPORT OF
THE PEER
COMMITTEE
CAL. NO. 17546**

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

-----X

Applicant, DAN UMANOFF, was authorized to practice as a
physician in the State of New York by the New York State Education
Department.

PRIOR DISCIPLINARY PROCEEDING

Applicant was convicted after a plea of guilty in the U.S.
District Court, Eastern District of New York of acquiring
possession of a controlled substance, in that on or about 7/29/89,
applicant knowingly, intentionally, and unlawfully obtained and
acquired possession of a controlled substance, Hycodan, through
misrepresentation or fraud, in that, while suspended from the
practice of medicine in New York State, he issued a prescription
for Hycodan in the name of Noel Umanoff, and thereby obtained and

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acquired the drug for his own use. As part of the plea agreement, applicant also admitted that between 11/86 and 5/90 he obtained controlled substances for his own use by writing numerous improper prescriptions.

It should be noted that this period of time included approximately 10 months following applicant's voluntary surrender of his medical license. At the time of applicant's arrest, he was in possession of small quantities of heroin.

The Hearing Committee concluded that applicant's "felony conviction coupled with the major breach of the subject's obligation under the terms of his temporary surrender of his license/registration warranted the penalty of revocation".

In reviewing the Administrative Review Board's determination, they make note that the applicant had appealed the revocation penalty as arbitrary and factually incorrect.

Applicant had stated that the Hearing Committee failed to assess his practice of medicine and had focused on the period of his drug abuse rather than considering his years of sobriety.

The Review Board stated the Hearing Committee's purpose was to "assess what penalty to impose for the acts of misconduct which the Respondent admitted during his guilty plea...of the federal felony". The Administrative Review Board voted unanimously to sustain the Hearing Committee's Determination and Order and the revocation penalty was sustained.

THE APPLICATION

On April 17, 1996 applicant petitioned for the restoration of his license to practice as a physician in the State of New York.

In his petition applicant states:

1. This petition for Restoration of my New York State Medical license is based on my surrendering of and subsequent revocation of my license due to an addiction to Hycodan which caused me to write prescriptions for that drug to satisfy my addiction. This addiction started in or around 1986. Finally, my disease caused me to be arrested by the D.E.A., in November 1990, for writing prescriptions without a license, which I had previously surrendered. Subsequent to my pleading guilty to charges stemming from my arrest, a hearing was held in May 1992 and my licensee was revoked due to the fact I was convicted of a Federal crime. I was sentenced to five (5) years probation for that crime.
2. Prior to my revocation of my license, I had a very successful career in Nephrology and had founded the first independent dialysis unit on Long Island. I had been sober for eight (8) years prior to becoming addicted to Hycodan in 1986. It became increasing difficult for me to get sober again after having eight (8) years of good sobriety in A.A. I could not come to forgive myself for throwing away all my hard work in staying sober for eight years. The relapse was precipitated by oral

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surgery and mistakenly using vicodin that was prescribed by the surgeon.

3. Following my last relapse I was sentenced to 5 years probation and began my long road to recovery again. I became involved in AA and requested Bert Johnson to be my sponsor who has remained my sponsor for over four years and remains my pillar for good sobriety. I regularly attend AA meetings, have met and become friends with many recovering alcoholics who have strengthened my ability to become and remain sober.
4. Although, I was forced to sell my shares in South Shore Dialysis, Inc. due to my addiction, I was financially secure enough to spend considerable time working the AA program, thus helping me obtain sobriety. Moreover, I was able to focus on and resolve the many problems I was plagued with due to my addiction.
5. Notwithstanding that my license was revoked for one (1) year in May 1992, I have waited over two and one-half years longer than necessary to request the restoration of my license. My commitment to recovery was the number one priority before I wanted to request my license restored. It is my belief that I needed to be absolutely positive that I had good sobriety and would be able to continue my medical career and still continue in my recovery.
6. This petition should be approved because I love medicine and

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the healing power of medicine. I had earned a reputation in the medical community as an excellent doctor who cared deeply about his patients and their well being. I want to be given the opportunity to build on that reputation. Despite the shame and humiliation my disease has caused me, I am very proud of the fact that I always made sure my patients were safe. I love to help people and desire so much to be able to use my skills as a doctor to fulfill my need to help other human beings. I was and can continue to be a productive member of the medical community to aid those sick and infirm.

7. Over a year ago I resumed active participation in nephrology rounds and case conferences at the Nassau County Medical Center with Dr. Carvounis; whom I will use as mentor upon my return to medicine. This has greatly benefited my intellectual knowledge of the field of Nephrology. In addition, I have continually reviewed periodicals and text book resources in my field to keep abreast of the changes in medicine and nephrology since I stopped practicing.
8. Finally, I have also developed an interest in the biological basis of addiction and wish to continue to research. Hopefully, I would use my place in the medical community to help still suffering addicts.
9. In summary, I feel very positive about resuming my medical career both in my recovery and intellectually. I hope to build

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on my excellent reputation as a caring healing doctor through reliability, humility, sobriety, caring and hard work.

THE MEETING

On September 16, 1998 this Peer Panel met to consider the application in this matter. Applicant appeared and was represented by Jeremiah S. Gutman, Esq. Stephen Lazzaro, Esq. represented the Division of Prosecutions of the Office of Professional Discipline. The parties began by making opening statements.

Applicant offered several documents at the meeting which were accepted and which are made a part of the material herein.

Applicant spoke to the committee and repeated much of what was stated in his application.

Upon questioning by Mr. Lazzaro applicant stated that he still thinks that the revocation of his license was biased, that there were alternatives and that the Health Department felt that his continued drug abuse after the surrender of his license was in defiance of them and that is why they revoked his license.

Applicant went on to say that he has had root canal work done during the seven years he has been in sobriety and he used nonsteroidal anti-inflamitories instead of mood altering drugs to deal with that and he has done fine with those. He said he attends AA meetings three times a week. He said he would accept restrictions on his practice if restored to licensure. There was

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then some discussion about what applicant had disclosed to the personnel at Nassau County Medical Center about his addition and some discussion about the circumstances under which applicant discontinued treatment with his therapists, which was by mutual consent.

In response to questioning regarding remorse applicant stated that he was remorseful but had to be careful that remorse did not get in the way of his recovery. In response to further questioning regarding his opinion that the Health Department action was biased applicant stated that he thought it was punitive rather than rehabilitative. They focused more on the fact that he had been a "non-cooperating addict" rather than on the fact that at the time of the hearing he had been in recovery for several months. When asked about the protection of the public applicant stated that the public was already being protected because he had surrendered his license and was not practicing medicine.

When asked what he would do if his license was restored applicant could not give an answer but stated he did not have to decide that at this time because he has money from the sale of his share of his former practice (\$900,000.00 at 9½% over ten years) and that he is publishing a book regarding his experiences with addition.

There was then further discussion about the history of applicant's addiction and how he was able to practice while being

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addicted to opiates.

In response to a question by Mr. Lazzaro about why he wanted his license restored applicant did not give a specific answer but rather spoke in generalizations.

The parties then made closing statements.

RECOMMENDATION

We unanimously recommend that the application herein not be granted and that the revocation of applicant's license to practice medicine in the State of New York not be stayed.

The record herein does not compel this panel to recommend restoration of licensure.

This committee is not satisfied that applicant is truly remorseful. Asked more than once who had been harmed by his substance abuse he never recognized that his actions had been harmful to the public. Applicant intellectualized everything about his misconduct including the "biased" actions of the Health Department. He was arrogant and demonstrated a lack of realism.

While applicant's continuing education is satisfactory he could not tell us what he would do with his license if he was reinstated but seems to want his license restored for the sake of having it restored.

While we admire applicant's efforts at remaining drug free we see that applicant is presently in a situation without any real pressure where he controls what happens. This would not be the

DAN UMANOFF (CAL. NO. 17546)

case were he to resume the practice of medicine. Long term sobriety does not automatically equal fitness to practice.

For all these reasons we cannot recommend restoration of licensure based on the record herein.

Respectfully submitted,

DAVID HARRIS, M.D., Chairperson
JOHN BOYCE, M.D.
BENJAMIN ROBINSON, Public Member

David Harris MD 1/2/99

Chairperson

Dated