

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
FEB 18 1997
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

February 5, 1997

Guy Denis, Physician

Redacted Address

Re: Application for Restoration

Dear Dr. Denis:

Enclosed please find the Commissioner's Order regarding Case No. 96-167-60R which is in reference to Calendar No. 0015787. 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: Redacted Signature

Gustave Martine
Supervisor

The University of the State of New York
Education Department



IN THE MATTER

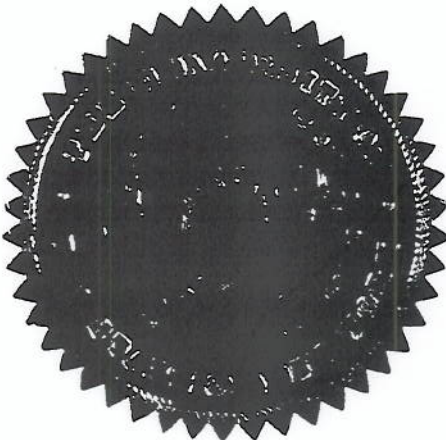
of the

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

Case No. 96-167-60R

It appearing that the application of GUY DENIS, Redacted Address
, to surrender his license to practice
medicine in the State of New York, having been accepted by action of the Board for
Professional Medical Conduct on May 10, 1993, 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 December 20, 1996, it is hereby

ORDERED that the petition for restoration of License No. 143323,
authorizing GUY DENIS 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 22 day
of January, 1997.

Redacted Signature

Commissioner of Education

Case No. 96-167-60R

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Committee on the Professions, now, pursuant to action taken by the Board of Regents on
December 20, 1996 it was

VOTED that the petition for restoration of License No. 143323, authorizing
GUY DENIS to practice as a physician in the State of New York, be denied.

96-167-60R
October 8, 1996

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: Guy Denis

Attorney: Clair A. Montroy, III

Guy Denis, Redacted Address

petitioned for restoration of his
medical license. The chronology of events is as follows:

- 08/22/80 Issued license number 143323 to practice medicine in New York State.
- 12/15/87 Charged with professional misconduct by Health Department. (See "Disciplinary History.")
- 10/18/90 Hearing Committee recommended license be revoked.
- 11/30/90 Commissioner of Health recommended license be revoked.
- 06/05/91 Regents Review Committee recommended license be suspended for five years, execution stayed, probation for five years.
- 07/26/91 Regents voted five years' suspension, stayed, five years' probation.
- 08/05/91 Commissioner's Order effective.
- 04/19/93 Charged with professional Misconduct by Department of Health.
- 04/26/93 License summarily suspended for 90 days by Commissioner of Health.
- 05/06/93 Applied to Surrender License.
- 05/10/93 Board for Professional Medical Conduct adopted the Application to Surrender License.
- 05/21/93 Order of the Board for Professional Medical Conduct effective.
- 06/20/94 Petition for restoration received.
- 01/05/96 Peer Panel restoration review.

- 04/12/96 Recommendation of Peer Review Panel. (See "Recommendation of the Peer Review Panel.")
- 10/08/96 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 and Application to Surrender License.) On December 15, 1987, the Department of Health charged Dr. Denis with professional misconduct in that he had practiced the profession of medicine with negligence on more than one occasion and with incompetence on more than one occasion. On October 18, 1990, the Hearing Committee (Lynch, Leslie, Raines) of the State Board for Professional Medical Conduct, Department of Health, sustained, in part, both of the charges and recommended that Dr. Denis's license be revoked. On November 30, 1990, the Commissioner of Health recommended that the Findings of Fact, Conclusions, and Recommendation of the Hearing Committee be accepted.

Although the Regents Review Committee (Linton, Black, Wachtel) recommended that the Findings of Fact, Conclusions, and Recommendation of the Hearing Committee and the Commissioner of Health be modified, it still recommended that Dr. Denis be found guilty, in part, of the charges. In its report of June 5, 1991, the Regents Review Committee further recommended that Dr. Denis's license be suspended for five years and that execution of said suspension be stayed, and that he be placed on probation for five years.

Although the Board of Regents voted to modify the Findings of Fact as recommended by the Regents Review Committee, it still found Dr. Denis guilty, in part, of both charges. On July 26, 1991, the Regents voted to suspend Dr. Denis's license for five years, execution of said suspension was stayed, and Dr. Denis was placed on probation for five years.

On April 21, 1993, the Commissioner of Health issued an order summarily suspending Dr. Denis's medical license. The Order of the Commissioner of Health, which became effective on April 26, 1993, was accompanied by a notice of hearing and a formal statement of disciplinary charges. Dr. Denis was charged with twenty-seven specifications of professional misconduct. On May 6, 1993, Dr. Denis signed an Application to Surrender License in which he admitted guilt, in part, to the fifteenth specification of professional misconduct which charged him with practicing the profession of medicine with negligence on more than one occasion.

On May 10, 1993, the Board for Professional Medical Conduct adopted the Application to Surrender License. The Order of the

Board for Professional Medical Conduct became effective on May 21, 1993.

Recommendation of the Peer Review Panel. (See attached report of the Peer Review Panel.) The Peer Review Panel (Colgan, Lee, Holtzapple) met January 5, 1996. In its report dated April 12, 1996, the Panel recommended that Dr. Denis's petition for restoration of his medical license be denied.

Recommendation of the Committee on the Professions. On October 8, 1996, the Committee on the Professions (Duncan-Poitier, Ahearn, Muñoz) met with Dr. Guy Denis to consider his petition for the restoration of his license as a physician in New York State. Dr. Denis was accompanied by his attorney Mr. Clair A. Montroy, III.

Dr. Denis opened the meeting by stating that he was a 50 year old physician with a wife and two children and that he has been unable to work for the last three years because of the surrender of his medical license. During that period of time he explained that his wife has gone back to work to support the family and he has worked at home taking care of their children.

Dr. Denis stated that he was a very caring professional when he practiced medicine but that he made some mistakes. He explained that he was too aggressive in recommending surgery for some patients. Dr. Denis said he has been taking continuing education courses at home and also participating in some continuing education at Roswell Park Cancer Center in Buffalo. He stated that he has been allowed to attend and observe surgery at Roswell Park and to discuss the surgery with professors afterward.

Dr. Denis explained the charges against him, which resulted in his surrender of his license, involved two patients for whom he performed surgery and five patients where he recommended surgery but surgery was not performed. Dr. Denis said he wrote in the patients' records that the patients may need surgery, however, no surgery had been scheduled. The Committee asked Dr. Denis about the results for the two patients on whom he performed surgery. Dr. Denis replied that they did not get worse. Dr. Denis explained that those two patients left his care. He also stated that one of these patients had other problems. Dr. Denis told the Committee that based on his level of knowledge now he would not do surgery on these patients. He explained that one of the patients was over 70 years old and that given a more balanced evaluation he would now conclude that the risks of doing surgery may outweigh the potential benefits.

The Committee noted Dr. Denis explained some of the very negative effects the loss of licensure had on him and his family. When asked what he felt the negative impact of his actions were on

his colleagues and patients, Dr. Denis stated that at that time he was working six days per week and was very happy. He felt that he was well accepted by his colleagues and that he was recognized and accepted in the community. He stated that his practice was growing and a lot more patients were coming to him for treatment. The Committee then inquired about Dr. Denis's statement that he had been too aggressive in recommending surgery for certain patients and asked Dr. Denis how the continuing education courses that he has taken addressed this problem. Dr. Denis explained that it has helped him focus on a different way to manage patients and that he would consider the benefits of medication first, getting another opinion, and that surgery would be a last resort. Dr. Denis stated that he had also benefitted from his involvement at the Roswell Park Cancer facility because of the interdisciplinary mix of physicians at these training programs.

The Committee noted in its review of the record that the Department of Health summarily suspended Dr. Denis's license. This is a serious action only taken when a physician's practice constitutes an imminent danger to the public health. The Committee explained that its primary responsibility in reviewing petitions for the restoration of a license is to ensure that there is adequate consideration of protection of the consuming public before a license may be restored. The Committee stated its concern about whether the continuing education which Dr. Denis had engaged in to date would appropriately address the deficiencies in his practice which gave rise to such serious action by the Department of Health.

There was no record of a hearing in regard to the disciplinary charges against him in 1993 when Dr. Denis surrendered his license. Therefore, the Committee asked Dr. Denis to respond to the two charges resulting from the two surgeries he performed. When asked whether he did anything wrong regarding patient A, Dr. Denis stated he should not have performed surgery on patient A. In regard to the surgery for patient D, Dr. Denis stated that he would now do this surgery in two stages.

The Committee asked Dr. Denis what his plans were if he got his license back. Dr. Denis stated that he planned to work in a hospital setting or a structured environment, perhaps a group practice. He stated that he did not plan to reenter solo practice.

The Committee again asked Dr. Denis what he thought the impact was on the lives of the two patients on which he actually performed surgery. Dr. Denis stated that as far as he knew there were no adverse effects on them but he did feel that it was wrong to perform the surgery and while there was no physical harm he acknowledged that there may have been some emotional harm to these patients.

In closing the meeting, Mr. Montroy referred to the affidavit of Dr. Heplinger who had recommended that Dr. Denis's license be restored with appropriate monitoring and asked that the Committee seriously consider this recommendation.

In reviewing the record, the Committee on the Professions notes that the Department of Health responded to Dr. Denis's petition for the restoration of his license on December 5, 1994, in pertinent part, their response reads as follows:

"This Office strongly opposes the restoration of Dr. Denis to practice medicine.

Dr. Denis was found guilty of negligence and incompetence on more than one occasion by the Board of Regents in July 1991."

"...In April of 1993, Dr. Denis's license to practice medicine was summarily suspended by Commissioner Chassin. This followed a new investigation and a recommendation by a committee of the State Board of Professional Medical Conduct that Dr. Denis's continued practice of medicine constituted an imminent danger to the public health. Dr. Denis was charged with gross negligence and incompetence."

"...Clearly, Dr. Denis did not modify his practice following the first disciplinary action. On May 10, 1993, Dr. Denis surrendered his license to practice medicine and admitted to practicing with negligence on more than one occasion. It is apparent that Dr. Denis has significant deficits in his knowledge and judgment which preclude the safe practice of medicine.

Dr. Denis's petition for restoration indicates that he has taken continuing medical education courses at home over the past year. The global deficits in Dr. Denis's practice require much more than a home study course."

The Committee also notes that misconduct charges were filed against Dr. Denis in 1987 regarding incidents from 1982 and 1983. While the 1987 charges were not resolved by placing Dr. Denis on probation until July of 1991, certainly Dr. Denis should have been on notice in 1987, upon being charged with professional misconduct, that there were serious concerns about his competency in the area of surgery. In fact, when these charges were ultimately resolved, Dr. Denis was found guilty of negligence and incompetence on more than one occasion relating to surgeries outlined in the above letter by the Department of Health. The incidents which gave rise to the second charges occurred in 1988, 1989, and 1990. While Dr. Denis's counsel argues that these incidents occurred prior to Dr. Denis being placed on probation, they occurred subsequent to

Dr. Denis being charged with professional misconduct in 1987. Accordingly, it is clear that the first set of charges against Dr. Denis did not result in the necessary changes in behavior regarding his practice. This fact pattern does not reflect favorably upon petitioner's request for the restoration of his license. Furthermore, the second set of charges were of such significance that the Department of Health acted to summarily suspend his license as his continued practice of medicine was considered an imminent danger to the public health.

In his petition and in his meeting with the Committee on the Professions, the Committee finds that Dr. Denis did not demonstrate sufficient insight as to the seriousness of the deficiencies in his practice. As an example of this, Dr. Denis did not demonstrate sufficient empathy for the patients who went through unnecessary surgery at his hands. He minimized this matter by stating that they were no worse off and only later in his discussion with the Committee on the Professions conceded that they may have suffered some emotional damage. This fails to recognize the pain and discomfort that patients would experience with any surgery. Dr. Denis did not demonstrate to the Committee his understanding of the seriousness of inflicting unnecessary pain and discomfort on these patients. In the meeting with the Committee on the Professions, Dr. Denis was too focused on the impact of the loss of his license on himself and his family and he failed to demonstrate his understanding and acknowledge the full impact on the patients involved.

The Committee on the Professions also concurs with the Peer Review Panel that Dr. Denis's continuing education efforts to date, while showing a good faith effort, do not sufficiently address the basis for the loss of licensure. The Committee believes that Dr. Denis's efforts at reeducation through his activities at Roswell Park are a step in the right direction and of more value than many of the home study courses or readings that Dr. Denis has also completed. Dr. Denis has made some progress toward further consideration for the restoration of his license. He admits that he made some errors, although he has not yet demonstrated his acceptance of the seriousness of the problems. The Committee believes that Dr. Denis needs to engage in further reeducation and rehabilitation efforts before he would be ready to have his license to practice as a physician restored.

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 meeting with Dr. Denis, the Committee on the Professions voted unanimously to concur with the recommendation of the Peer Review Panel of the State Board for Medicine that Dr. Denis's petition for the restoration of his license as a physician be denied at this time.

Johanna Duncan-Poitier, Chair

Kathy A. Ahearn

Frank Muñoz