

Professional Assistance Program

Application Packet

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Overview

The New York State Board of Regents, through the New York State Education Department's Office of the Professions, operates a program for licensed professionals who have substance abuse problems. The Professional Assistance Program (PAP) was established by the New York State Legislature in 1985 as a **confidential**, treatment-based alternative to disciplinary proceedings. Professionals whose actions have not resulted in patient harm may voluntarily surrender their licenses while seeking substance abuse treatment. Those who are admitted to the PAP are granted immunity from Education Department charges of practicing while impaired and being a habitual user of alcohol or other drugs. The program is available to professionals licensed under Title VIII of the Education Law except for physicians, physician assistants, and specialist assistants.

The statute that created the Professional Assistance Program (PAP) also established a committee on drug and alcohol abuse to advise the Board of Regents on matters relating to practice by professional licensees who have drug or alcohol abuse problems. Later named the Committee for Professional Assistance, it currently consists of 35 members who are either experts in addictive illness or individuals with an interest in this field, one of whom serves as the Committee Chair. The Committee works with the program staff on policies and procedures and keeps the Department informed of the major issues and innovations in the field. Committee members also serve on panels to determine admission and license reinstatement, and to develop treatment plans and monitoring requirements.

Professionals who enter the program agree to participate in acceptable substance abuse treatment and to be monitored for a minimum of two years after their license has been reinstated. Under a new statute the PAP established two pathways in the Program. The original pathway, now known as Prism, requires a period of license surrender of unspecified duration. When the professional and his or her treatment provider believe that he or she is ready to return to professional practice, the participant petitions the Committee to have the license reinstated. After meeting with the licensee and assessing all of the information, the Committee makes the determination as to whether resumption of professional practice is appropriate. The new pathway, known as Nurse 2 Nurse (N2N) only applies to nurses who are determined by the Committee to not be a threat to the health, safety and welfare of the public and who meet a number of criteria. License restoration in these cases can occur immediately. The N2N pathway serves two groups of nurses, each with distinct needs. It addresses the needs of licensees experiencing early signs of drug misuse and abuse and also assists licensees who are in strong recovery with a long history of sobriety.

Monitoring for both pathways of the PAP includes treatment reports, work-site reports, and random observed drug screens at specified frequencies. Other conditions may apply as appropriate to the individual situation and the recommendations of the treatment provider. Depending on the participant's substance abuse history, the participant's license may be restored with certain practice restrictions imposed in order to protect the health, safety, and welfare of the public. For example, a professional in a medical setting may not be allowed to have access to narcotics or be prohibited from working unsupervised. Discharge from the PAP is not automatic after the minimum two years of monitoring. Documentation supporting discharge must be provided to the PAP and the program staff evaluates the evidence and makes a determination.

Benefits to the Public

The PAP provides a benefit to the public by arranging for:

1. The immediate surrender of the professional's license to the Department.
2. Approval of all treatment plans by a committee composed of experts on addiction and professional practice.
3. Routine monitoring of the professional while the license is surrendered.
4. Return to practice only after the Committee determines that it is safe for the public for the professional to resume practice.
5. Stringent monitoring of the reinstated licensee for an absolute minimum of two years of safe practice.
6. Strict practice conditions, including at a **minimum**: twice a week, random drug toxicology screens; monthly evaluation by both a treatment monitor and a worksite monitor; restricted access to narcotics; close supervision; and limited hours.

Benefits to the Licensed Professional

The professional with addictive illness benefits from:

1. Immunity from two potential charges of professional misconduct: practicing the profession while the ability to practice is impaired by alcohol or drugs; and being habitually drunk, or being a habitual user of narcotics or other drugs having similar effect.
2. Potential consideration of reduction of other charges or penalties in possible State Education Department, Department of Health or criminal proceedings.
3. Expert advice of the Committee for Professional Assistance in setting up a thorough and effective treatment program and in planning for the professional's return to professional practice.

Statistics

The most recent estimates are that 16% of the population will experience a substance use disorder. Research suggests that professionals, particularly those with ready access to prescription pharmaceuticals, are at greater risk. The positive news for professionals is that completion of drug treatment typically results in a much stronger recovery. Relapse rates for the general population reported in a 1991 federal epidemiological catchment area survey were greater than 5%. For professionals who successfully complete a structured program like the PAP, experts estimate only a 15-20% relapse rate. PAP data are consistent with that data. A PAP participant who relapses is immediately scheduled to meet with the Committee for Professional Assistance to re-surrender his/her license. In the N2N pathway, this involves transfer to the ProAssist pathway with its unspecified period of license surrender.

The PAP has assisted nearly 1200 licensed professionals since 1986. Currently, there are 770 practicing professionals being monitored by the PAP. Approximately 80% are nurses, 10% are pharmacists, and 5% are dentists. The remaining 5% include members of 15 other professions.

Committee for Professional Assistance

The Board of Regents appoints members to the Committee for Professional Assistance. The Committee advises the Regents on matters relating to practice by licensed professionals with alcohol or other drug abuse problems and makes determinations on admission to the PAP and acceptable compliance with its requirements. The majority of Committee members have expertise in the field of chemical dependency.

A three-member panel of the Committee interviews applicants for admission to the PAP and considers petitions for license reinstatement. **At all panel meetings, a member of the State Board for the licensee's profession is also present, assisting by addressing issues which may be specific to that profession. By statute, a decision of the Committee requires a 2/3rds vote. When possible, the State Board member does not vote but participates in the deliberation and can have an effect on the final determination.** These panel meetings are informal and **confidential**, and no transcript is made.

New Committee members are selected by the same process as State Board members. Although there is no statutory minimum or maximum for the Committee, the goal is to have sufficient numbers to handle eight days of panel meetings per month. That translates into approximately 35-40 members. Since panel meetings are held in Albany, New York City, Syracuse, Buffalo and Rochester, geographical distribution is also a strong consideration.

Admission

A. Prism

An applicant for admission to the Prism pathway must complete an application form, provide a diagnosis of addictive illness from a licensed health professional, and meet with a panel of the Committee for Professional Assistance. The criteria used by the Committee require that:

1. There has been no harm to the licensee's patients or clients that has resulted from a problem of drug or alcohol abuse.
2. The applicant presents an acceptable program of treatment.

3. The applicant accepts all monitoring requirements including a minimum of two years of monitoring.
4. When appropriate, the applicant provides an acceptable plan for informing patients or clients of temporary withdrawal from practice.
5. The applicant agrees to total abstinence from mood-altering substances.

If an applicant accepts these conditions, the applicant signs a voluntary surrender document and surrenders all professional licenses. PAP sends confidential memos to the Office of Professional Discipline, the Department of Health, the Division of Professional Licensing Services and any state in which the applicant is licensed, informing that the licensee has surrendered his/her license to the program, but providing no other information

B. Nurse to Nurse (N2N)

This pathway is ONLY available to LPN's, RN's, and Nurse Practitioners. For admission to the Nurse to Nurse (N2N) pathway; an applicant must complete an application form, provide a full psychological/social/chemical dependency evaluation from an Office of Alcoholism and Substance Abuse Services (OASAS) approved treatment provider (or a provider otherwise approved by the Committee), and meet with a panel of the Committee for Professional Assistance. The criteria used by the Committee require that:

1. There has been no harm to licensee's patients or clients that has resulted from a problem of drug or alcohol abuse.
2. The applicant presents an acceptable program of treatment and/or education.
3. The Committee determines that there is no threat to the health, safety, and welfare of the public posed by the licensee continuing to practice.
4. The applicant accepts all monitoring requirements including a minimum of two years of monitoring.
5. The applicant agrees to total abstinence from all mood-altering substances.

If an applicant accepts these conditions, the applicant signs a voluntary surrender document and surrenders all professional licenses. The licenses are then immediately restored, and the monitoring function begins. No notifications are made to any office or other entity without a waiver of confidentiality from the licensee.

Inactive Status Monitoring

During the time that the professional has surrendered a license to the Prism pathway of PAP and is undergoing treatment, the individual must maintain contact with the program, at a minimum, reporting in writing quarterly (on January 1, April 1, July 1, October 1) on progress in recovery. The professional must immediately update the office of any change in living circumstances, such as an address or job change or modifications to treatment. While the license is surrendered, the professional may not work in any position requiring a professional license under any circumstances. In addition, the Committee usually prohibits working in a related position or a different job at the same location. Exceptions to this latter policy must be pre-approved by the program after consultation with the Committee.

Active Status Monitoring

In Prism, when the treatment provider(s) and the participant believe that it is safe for the public and appropriate for the participant's recovery to resume practice, the participant schedules another Committee panel meeting to discuss license reinstatement. Documentation to support this request must include at least four weeks of twice a week, random, observed toxicology reports and strong letters of support from the treatment provider(s). These letters may include recommendations for conditions that would both protect the public and support the professional (e.g. no night work, no overtime, no administration of narcotics for a specified period, etc.). The panel evaluates the documentation and the presentation and makes a decision whether to reinstate the license.

Monitors

After the license is reinstated, the PAP requires at least two years of monitoring. This monitoring function is the same for both the Prism and N2N pathways of the PAP. Although there are various monitoring functions, they may or may not all be carried out by the same monitor. The licensee is responsible for arranging for monitors who meet the program's criteria. Monitoring is a process of the collection and reporting of data to determine abstinence from alcohol and other drugs and to support recovery. This process monitors the licensee's practice, toxicology, and recovery. Those persons who accept these responsibilities are referred to as "Practice Monitors".

- **Practice Monitor**

Practice monitors are expected to meet with the participant on a regular basis (at least monthly), as decided by the PAP. They are critical in assessing the participant's professional performance based on personal observation, attendance, relationships with co-workers, adherence to the back-to-work agreement, and workplace behavior. Practice monitors submit monthly reports and may also provide toxicology monitoring for the participant.

- **Worksite Monitor**

A Worksite monitor is a Practice monitor who is obligated to observe the participant engaging in the practice of his/her profession. They are responsible for meeting with the participant at least once a week.

- **Toxicology Monitor**

A Toxicology Monitor is a Practice monitor who reviews and reports the laboratory testing results from urinalysis screening, blood alcohol testing, Breathalyzer, hair analysis, and dermal patch analysis. Upon reinstatement of the license, PAP will determine the type of biological testing and minimum frequency of testing. In addition:

- a. Urinalysis must include testing for the drugs marked on the monitor contract for this participant. Collection must be random and observed. Random means that the collections follow no particular pattern and that participants have no prior knowledge of when a screen will be collected. Requests for screens must be met within 12 hours. Observed means that there is visual observation of the urine sample collection. The PAP must approve any exceptions.
- b. Failure to appear for a requested collection and refusal to provide a sample will be considered positive results, resulting in a meeting with the Committee for Professional Assistance.
- c. Chain of custody procedures must be followed at the collection site. If the screen has a positive result, the sample must be retested for final confirmation using Gas Chromatography/Mass Spectrometry or another forensic method.
- d. The laboratory used should be certified by the State or Federal government health authorities as a medical lab and should meet the original requirements of forensic laboratories.
- e. Testing for alcohol should be included as a standard test in the urinalysis screen for all participants. Monitors are advised to collect specimens at different times of day. Immediate tests for alcohol may include breathalyzers, saliva strip, or Alco-sensors, and may be required on a case-by-case basis as determined by the PAP.

- **Treatment Monitor**

A Treatment monitor is a Practice monitor who reports on the participant's progress in treatment and recovery from substance abuse.

- **Recovery Monitor**

Is a Treatment monitor and may be a counselor in the participant's treatment facility. If the participant has been successfully discharged from treatment, the recovery monitor is usually a licensed health professional. Recovery monitors submit monthly reports and may also provide toxicology monitoring for the participant.

Relapse

The process of relapse often begins well before the actual use of drugs or alcohol. PAP requires monitors to notify the PAP by phone within 24 hours of any signs of relapse. The PAP defines relapse as any deviation from abstinence. Any use of a mood-altering drug without express understanding and approval from the participant's treatment provider and the PAP is considered a relapse. Any relapse will result in a meeting between the participant and a panel of the Committee for Professional Assistance.

Criteria for Monitors

1. Be willing to become familiar with the impairment history of the PAP participant.
2. Have a basic knowledge of the disease of addiction, the recovery process, and the functioning of the PAP. This may be received through a New York State Nurses Association training course, a PAP training course, or special approval of education and experience from the Executive Secretary of the Committee for Professional Assistance.
3. Be familiar with the PAP participant's terms of restoration of license.
4. Not be an advocate for, or close friend or family member of the PAP participant.
5. Be willing to meet with the PAP participant on a regular basis (at least monthly).
6. Accept the responsibility of completing PAP monthly report forms.
7. Routinely communicate with other monitors of the PAP participant.
8. Agree to notify PAP by phone, within 24 hours, of all incidents or indications of noncompliance, evidence of impairment, positive toxicology screens, or violation of any term of restoration of license.
9. Report any potential conflict of interest issues to PAP.
10. Arrange for PAP participant monitoring during periods of unavailability such as vacations of either the monitor or the participant or any payments if the monitor and the participant agree to a fee arrangement.
11. Notify the participant that the New York State Education Department is NOT responsible for enforcing any arrangement or any payments of the monitor and the participant agree to a fee arrangement.
12. Provide documentation to justify discharge of the participant when all requirements have been met and continue to monitor for the period between discharge application and formal approval by the PAP.
13. Agree to keep confidential all information about the participant and to share information only with the PAP and the other monitors for whom the participant has signed a waiver of confidentiality.

Out-of-Compliance Situation

A participant is deemed out-of-compliance when the program receives any information that he/she is relapsing or is failing to meet the requirements set by the Committee. The professional receives an immediate warning letter and, in situations involving relapse or if the non-compliance is not corrected immediately, the participant is required to attend a panel meeting. Outcomes of such meetings usually involve re-surrender of the license or additional requirements. In extreme cases of non-compliance, the panel may recommend a separate meeting to terminate the professional from the program.

Leaving the Program

1. **Voluntary Withdrawal** - Since the PAP is a voluntary program, a participant may withdraw from the program at any time; however, this is a very rare occurrence. The program processes these withdrawals as removal from the program and, in the case of the Prism track, notifies the Office of Professional Discipline, The Division of Professional Licensing, the Department of Health, and any state in which the professional is licensed.

EXAMPLE:

This involved a professional who holds both an RN and a LPN license. After an injury, she became addicted to prescription painkillers and began stealing them from her employer. Although she was granted immunity to practicing while impaired and being a habitual user, she was prosecuted for related, but more serious misconduct charges. After successfully completing several years of probation as required by the discipline system, she voluntarily withdrew from PAP even though she only needed a few more months of monitored practice to be eligible for discharge. Since her addiction and misconduct were already public knowledge, she preferred the risk of further misconduct charges to the rigorous monitoring and practice restrictions. Although the program staff attempted to convince her that it was to her advantage to stay in the program, she followed the advice of her private attorney and voluntarily withdrew.

2. **Discharge** - After two years of post-restoration practice in full compliance with the Committee and program requirements, a participant may apply for discharge. The participant should send all supporting documentation to the PAP for review and determination. The discharge is not complete until an official letter of discharge is issued. The program does not encourage automatic discharges after the minimum period, and often, participants prefer to maintain the structure and support remaining in the program provides. The average amount of time a participant spends in the program is three and a half years.

EXAMPLE:

One atypical discharge involved a professional who surrendered his license to the program for six years and pursued a career in an unrelated field. During that time, he worked hard on his recovery and maintained sobriety. He then decided to return to his original profession and, after he demonstrated considerable re-education, the Committee reinstated his license with a requirement that he practice only under close supervision provided by a fellow professional who would report regularly to the PAP. The reinstatement was very successful and, after two years of compliance with all requirements, the professional was successfully discharged.

EXAMPLE:

A more typical discharge involved a nurse who worked in a large institution. She had been obtaining multiple prescriptions from different physicians for various narcotic painkillers. She was confronted by her nursing director who in addition to taking personnel actions against the nurse, recommended she contact PAP. She had already completed in-patient treatment when she applied to the PAP, and the Committee assisted her in entering an outpatient program near her hometown. She relapsed once while her license was surrendered, but she continued to work on her recovery. Ten months after she entered the program, she applied to the Committee for reinstatement of her license. Her treatment provider strongly recommended the reinstatement and after discussing the nurse's work plans with her, the Committee agreed. The nurse arranged for a staff member of the Employee Assistance Program at her institution to be her practice monitor at the worksite. After two and a half years of practice of full compliance with all requirements, she applied for and received discharge from the PAP. She continued working in the same institution where she was initially confronted, and she is a valuable member of the nursing team.

3. **Removal from the Program** - Upon a vote by a panel of the Committee for Professional Assistance, the PAP may remove a participant from the ProAssist pathway of the PAP and refer the matter to the Office of Professional Discipline for appropriate proceedings, and the Committee may revoke the immunity from disciplinary action granted to the licensee for the following reasons:
 - a. Failure to meet the conditions imposed upon acceptance into the program.
 - b. Evidence that patient or client harm resulted from the licensee's problem of drug or alcohol abuse.
 - c. Other evidences that the licensee should not be permitted to continue in the program.
4. **Termination** - Termination from the Prism pathway of the PAP may result in the reopening of professional misconduct cases that were closed upon the licensee's acceptance into the program. The PAP would also notify the Department of Health, the Office of Professional Discipline, the Division of Professional Licensing, and any state in which the participant is licensed of the removal from the program and the revocation of immunity.

EXAMPLE:

Recently, an RN was terminated from the program and her immunity was revoked by the Committee due to the professional's refusal to abide by the practice restrictions imposed. In this case, after many months of successful practice, a lapse in judgment at the worksite by the RN resulted in a meeting with a panel of the Committee and the addition of several practice restrictions suggested by the member of the State Board for Nursing. After several weeks of practicing with the new restrictions, the nurse refused to comply. This was unusual because most Prism terminations are due to failure to provide the routine monitoring required. This combined with refusal to re-surrender the license, or more typically, failure to respond to contact attempts by the PAP, would force the program to move to immediate termination and notification of the Office of Professional Discipline in order to protect the public.

Participation in the Professional Assistance Program (PAP)

1. Complete and submit a PAP application with attached waivers.
2. Call 518-485-9380 for information or to schedule an admission hearing.
3. You will receive a letter notifying you of the time and place of the admission hearing.
4. Admission Hearing: You may be accompanied by anyone of your choosing. You may expect to meet three members of the Committee for Professional Assistance, as well as a State Board representative from your profession and State Education Department Staff.
5. If, as a result of the admission hearing, the panel feels you are appropriate for the PAP, you will be given the opportunity to participate. Participation requires the TEMPORARY surrender of your professional license, participation in substance abuse treatment at an agency certified by the Office of Alcohol and Substance Abuse Services (OASAS) or other PAP-approved treatment program, and abstinence/sobriety from any and all mood-altering substances. At the time of admission, participants are also required to provide the initial intake report from the treatment program as proof of treatment involvement.
6. You will then sign a statement of surrender which is dated.
7. Confidential memos are sent to the Office of Professional Discipline, the Department of Health, and the Division of Professional Licensing Services. The memo states that you have surrendered your license to PAP. No other information is provided.
8. Every three months prior to license reinstatement, participants are required to provide the PAP with an update which should include current name, mailing address, and telephone number(s). This quarterly report should also include a treatment review and treatment plan from the current treatment provider with a toxicology schedule (if applicable), and information on 12-step participation (AA, NA, frequency of attendance, sponsorship).
9. When, in conjunction with treatment support, you feel prepared to resume professional practice, it is your responsibility to petition in writing the reinstatement of your license.
10. In addition to the written petition for reinstatement, you must call to schedule a hearing for the reinstatement of your license. You may once again expect to meet with three members of the Committee for Professional Assistance, a State Board representative, and State Education Department staff. (You may, bring someone with you.)
11. Reinstatement Hearing: You are required to provide at least eight clean screens at a rate of two random observed per week for one month immediately prior to the reinstatement hearing (chain of custody protocols must be followed). The toxicology profile must include screening for the participant's "drug of choice" and must include testing for alcohol. We strongly urge immediate testing for alcohol (i.e. breathalyzer, saliva strip, BAC) in addition to the body fluid testing. The PAP also requires letters of assessment from all current treatment providers, addressing the appropriateness of the reinstatement of the license and recommendations about particular work conditions. For example: the therapist may feel that the professional in recovery should not have access to narcotics for the first year of employment, that the returning professional in recovery should only be permitted to work a day shift, or that the returning professional in recovery should have no particular restrictions to the professional practice. All this information must be in place for review prior to the reinstatement hearing date. If the panel agrees to restore the professional license, the participant's monitoring requirements- such as the frequency of urinalysis or blood alcohol reports will be reviewed. The participant can expect monitoring to continue for at least two years. All of the requirements discussed at the hearing will be provided later to the participant in writing.
12. Your designated monitor will be expected to submit a monthly progress/monitor report noting dates of random screens and any other recovery treatment issues or comments by the 7th of the following month.
13. Once the professional license is restored, you will be expected to keep the Professional Assistance Program apprised of any changes in treatment plan, aftercare treatment plan, employment, and address. The participant must also provide the PAP with a copy of any back-to-work contract once he/she resumes professional practice, and the name of the worksite monitor.

14. You may need to select another designated monitor at some point in the monitoring process if you are successfully discharged from active treatment.
15. Discharge from the program requires the completion of a minimum of two years of compliant post-reinstatement monitoring by the PAP. The participant must also provide the PAP with copies of all up-to-date toxicology reports and a letter from the current monitor in support of PAP discharge. Discharge eligibility is not automatic; eligibility is based on the participant's ability to comply with program standards and requirements.

Title VIII, Education Law, Article 130, Section 6510-b

§6510-b. Temporary surrender of licenses during treatment for drug or alcohol abuse.

1. The license and registration of a licensee who may be temporarily incapacitated for the active practice of a profession licensed pursuant to title eight of this chapter, except professionals licensed pursuant to article one hundred thirty-one or article one hundred thirty-one-b thereof, and whose alleged incapacity is the result of a problem of drug or alcohol abuse which has not resulted in harm to a patient or client, may be voluntarily surrendered to the department, which may accept and hold such license during the period of such alleged incapacity or the department may accept the surrender of such license after agreement to conditions to be met prior to the restoration of the license. The department shall give written notification of such surrender to the licensing authorities of any other state or country in which the licensee is authorized to practice. In addition to the foregoing, the department shall also give written notification of such surrender, for professionals licensed pursuant to articles one hundred thirty-two, one hundred thirty-three, one hundred thirty-five, one hundred thirty-seven, one hundred thirty-nine and one hundred forty-one of this chapter to the commissioner of health or his designee, and where appropriate to each hospital at which the professional has privileges, is affiliated, or is employed. The licensee whose license is so surrendered shall notify all persons who request professional services that he or she has temporarily withdrawn from the practice of the profession. The department may provide for similar notification of patients or clients and of other interested parties, as appropriate under the circumstances of the professional practice and responsibilities of the licensee. The licensure status of such licensee shall be "inactive" and he or she shall not be authorized to practice the profession and shall refrain from practice in this state or in any other state or country. The voluntary surrender shall not be deemed to be an admission of disability or of professional misconduct, and shall not be used as evidence of a violation of subdivision three or four of section sixty-five hundred nine of this chapter, unless the licensee practices while the license is "inactive"; and any such practice shall constitute a violation of subdivision eight of said section. The surrender of a license under this subdivision shall not bar any disciplinary action except action based solely upon the provisions of subdivision three or four of section sixty-five hundred nine of this chapter, and only if no harm to a patient has resulted; and shall not bar any civil or criminal action or proceeding which might be brought without regard to such surrender. A surrendered license shall be restored upon a showing to the satisfaction of the department that the licensee is not incapacitated for the active practice of the profession, provided that the department may, by order of the commissioner, impose reasonable conditions on the licensee, if it determines that because of the nature and extent of the licensee's former incapacity, such conditions are necessary to protect the health, safety and welfare of the public. Prompt written notification of such restoration shall be given to all licensing bodies which were notified of the temporary surrender of the license.
2. There shall be appointed within the department, by the board of regents, a committee on drug and alcohol abuse, which shall advise the board of regents on matters relating to practice by professional licensees with drug or alcohol abuse problems, and which shall administer the provisions of this section. The board of regents shall determine the size, composition, and terms of office of such committee, a majority of the members of which shall be persons with expertise in problems of drug or alcohol abuse. The committee shall recommend to the board of regents such rules as are necessary to carry out the purposes of this section, including but not limited to procedures for the submission of applications for the surrender of a license and for the referral of cases for investigation or prosecution pursuant to section sixty-five hundred ten of this article if a licensee fails to comply with the conditions of an approved program of treatment. There shall be an executive secretary appointed by the board of regents to assist the committee. The executive secretary shall employ, or otherwise retain, the services of a registered professional nurse with appropriate qualifications in substance abuse and addiction to assist in the implementation of the program authorized by section six thousand five hundred ten-c of this article. Determinations by the committee relating to licensees shall be made by panels of at least three members of the committee designated by the executive secretary, who shall also designate a member of the state board for the licensee's profession as the ex-officio non voting member of each panel. In the case of a determination relating to a licensed nurse, at least one panel member must be a registered professional nurse licensed by the state.

3. Application for the surrender of a license pursuant to this section shall be submitted to the committee, and shall identify a proposed treatment or rehabilitation program, and shall include a consent to the release of all information concerning the licensee's treatment to the committee. All information concerning an application, other than the fact of the surrender of the license and the participation in the program and the successful completion or failure of or withdrawal from the program, shall be strictly confidential, and may not be released by the committee to any person or body without the consent of the licensee. The immunity from disciplinary action conferred by this section shall be conditioned upon the approval of the treatment or rehabilitation program by the committee and its successful completion by the applicant and the elimination of the incapacity to practice. Approval of a treatment or rehabilitation program by the committee shall not constitute a representation as to the probability of success of the program or any assumption of financial responsibility for its cost.
4. The immunity from disciplinary action conferred by this section may be revoked by the committee upon a finding that the licensee has failed to successfully complete the program or that the incapacity to practice has not been eliminated. Such revocation shall be made only after notice and an opportunity to be heard, but no adjudicatory hearing shall be required. The matter shall be referred for appropriate proceedings pursuant to section sixty-five hundred ten of this chapter. The license must be returned unless charges are served pursuant to section sixty-five hundred ten within thirty days after the revocation of the approval of the special treatment afforded by this section.
5. The commissioner is authorized to adopt regulations to carry out the purposes of this section, including but not limited to the notice of temporary inactive status to be required in different professions and practice situations and the measures required upon temporary withdrawal from practice.
6. No individual who serves as a member of a committee whose purpose is to confront and refer either to treatment or to the department licensees who are thought to be suffering from alcoholism or drug abuse shall be liable for damages to any person for any action taken by such individual provided such action was taken without malice and within the scope of such individual's function as a member of such committee, and provided further that such committee has been established by and functions under the auspices of an association or society of professionals authorized to practice under this title.
7. In addition to the provisions of section two thousand eight hundred three-e of the public health law, any entity licensed pursuant to articles thirty-six, forty and forty-four of the public health law, and any mental hygiene facilities, and correctional, occupational, school and college health services shall provide a report to the office of professional discipline when there is a suspension, restriction, termination, curtailment or resignation of employment or privileges in any way related to a licensed nurse that is impaired when the impairment is alleged to have been caused by a drug-related problem. Any person, facility, or corporation which makes a report pursuant to this section in good faith shall have immunity from any liability, civil or criminal, for having made such a report except where the conduct constitutes negligence, gross negligence or intentional misconduct. For the purpose of any proceeding, civil or criminal, the good faith of any person, facility or corporation required to make a report shall be presumed. Such presumption may be rebutted by any competent evidence.
8. Notwithstanding any other provision of law, the license and registration of a licensed dentist or pharmacist who may be temporarily incapacitated for the active practice of their profession licensed pursuant to articles one hundred thirty-three and one hundred thirty-seven of this title and whose alleged incapacity is the result of a problem of drug or alcohol abuse which has not resulted in harm to a patient or client, may be voluntarily surrendered to, or voluntarily offered for any alternative disposition with the department, which may accept and hold such license or make any other disposition regarding such license deemed appropriate under the circumstances, if the department determines the health and safety of the public will be adequately protected thereby, during the period of such alleged incapacity. The department may accept the surrender of such license after agreement to conditions to be met prior to the restoration of the license or the department may treat the license as not surrendered and may impose conditions to allow the licensee to retain the license. All other provisions of this section shall be applied to the professions of dentistry and pharmacy in conformity with this subdivision.

Rules of the Board of Regents, Part 18 - Voluntary Surrender of License

§18.1 Committee for Professional Assistance

The committee on drug and alcohol abuse referred to in subdivision 2 of section 6510-b of the Education Law shall be known as the Committee for Professional Assistance.

§18.2 Application

A licensee authorized to practice a profession under title VIII of the Education Law, except professionals licensed pursuant to article 131 or 131-b of the Education Law, may apply to surrender the license pursuant to section 6510-b of the Education Law. The licensee shall file an application, consent to release of treatment records and such other information as the department shall require. The department may require the licensee to appear before staff or committee members in connection with the application.

§18.3 Acceptance

In consultation with the Committee for Professional Assistance, the department may accept an application for voluntary surrender of the license if the following conditions are met:

- a. There has been no harm to the licensee's patients or clients that has resulted from a problem of drug or alcohol abuse. Any question of harm to a patient shall be investigated prior to the acceptance of the surrender of a license pursuant to Education Law, section 6510-b.
- b. The applicant presents a proposed program of treatment that is acceptable.
- c. The applicant accepts all monitoring requirements including a minimum of two years of monitoring by the committee or its designee. The minimum two years of monitoring shall include the period of active treatment.
- d. The applicant provides an acceptable plan for informing patients or clients, who request professional services, of temporary withdrawal from practice.

§18.4 Removal from program

In consultation with the Committee for Professional Assistance the department may remove a participant from the program and refer the matter to the office of professional discipline for appropriate proceedings pursuant to section 6510 of the Education Law and the committee may revoke the immunity from disciplinary action granted to the licensee in accordance with the requirements of Education Law, section 6510-b(4) for the following reasons:

- a. failure to meet the conditions imposed upon acceptance into the program;
- b. evidence that patient or client harm resulted from the licensee's problem of drug or alcohol abuse; or
- c. other evidence that the licensee should not be permitted to continue in the program.

§18.5 Reinstatement of license

In consultation with the Committee for Professional Assistance, the department may reinstate a license to practice which has been voluntarily surrendered in accordance with this Part, upon satisfactory evidence that the participant has made sufficient progress in the treatment program and in meeting such other conditions as were imposed upon acceptance into the program and is not incapacitated for active practice. The department may require the individual to appear before staff or committee members in connection with the request for reinstatement of the license. In reinstating the license, the department may impose conditions on the licensee which are necessary to protect the health, safety and welfare of the public. The conditions may include, but are not limited to, participation in a treatment program including such monitoring as the committee and department may require, continuing professional education, practice under supervision and limitations on the scope and nature of practice. Such conditions shall be in effect for a period of time to be specified by the department. The licensee will be registered for the period in which the license is reinstated upon receipt of all applicable registration fees.

§18.6 Committee votes

Committee actions may be taken by panels comprising at least three members of the committee. A majority vote shall be required for all recommendations and decisions made by the committee or panels constituted from its membership that pertain to accepting an application for the voluntary surrender of licenses, imposing conditions on a licensee, revoking immunity from disciplinary action, removing a participant from the program or restoration of a license to practice.

§18.7 Appeals

An appeal may be taken by the applicant to the Committee on the Professions from determinations of the Committee for Professional Assistance and/or the department pertaining to refusal to accept an application for the voluntary surrender of a license, the imposition of conditions on a license, the removal of the applicant from the program and the revocation of immunity from disciplinary action. The decision of the Committee on the Professions in such an appeal shall be final.

11. A. Have you had treatment in the past for alcohol and/or substance abuse? Yes No

B. Are you currently in treatment for alcoholism and/or other substance abuse? Yes No

Describe the treatment program(s) you have completed, are enrolled in, or plan to enroll in, starting with the most recent:

Date	Name of Agency	Length of Stay

12. Are you involved in any Twelve Step Program (AA/NA, etc.)? Yes No

13. Do you have a sponsor? Yes No

14. Are you currently being monitored via toxicology screens? Yes No

If "Yes", do they test for alcohol? Yes No If "Yes", how? _____

15. Are you under any psychiatric care? Yes No

If "Yes", please explain _____

16. Are you taking any psychotropic medications? Yes No

If "Yes", list the medications _____

17. Are there any current restrictions on your license in this state or in any other state or country? Yes No

If "Yes", please explain _____

18. Are you or have you ever been subject to any investigation or prosecution by the Office of Professional Discipline? Yes No

If "Yes", please explain _____

19. Have you ever been charged with or convicted of a crime (felony or misdemeanor) in any state or country? Yes No

If "Yes", please explain, and indicate the state or country where it took place or is pending

20. Describe your present professional practice, including place and address of employment, responsibility, etc..

21. Affidavit

I affirm that no patient or client harm has resulted from my impairment. I hereby consent to the investigation by the Department of any question of eligibility arising from a question of patient or client harm. Under penalties of perjury, I declare and affirm that the statements made in this application, including accompanying statements and documents, are true, complete, and correct. I understand that any false or misleading information in, or in connection with, my application may lead to disciplinary charges and discharge from the Professional Assistance Program.

Signature

Date

Return Directly to: New York State Education Department, Professional Assistance Program, 80 Wolf Road, 2nd Floor - Suite 204, Albany, New York 12205-2643

New York State Professional Assistance Program Release Information and Waiver

Name _____

I authorize Professional Assistance Program staff to obtain from, release to, and discuss information related to my participation in the Professional Assistance Program with the following individuals/agencies. I understand that the information to be shared may include diagnosis, prognosis, treatment for addictive illness, job performance and other professional practice issues, and Professional Assistance Program policy and monitoring procedures.

Check all that apply:

- Therapist _____
- Treatment Facility _____
- EAP _____
- Employer _____
- SPAN _____
- Physician _____
- Attorney _____
- Monitor(s) (Treatment, Recovery, Practice)

- Office of Professional Discipline _____
- Probation/Parole _____
- New York State Department of Health Other States _____
- Other

Signature

Date

Return Directly to: New York State Education Department, Professional Assistance Program, 80 Wolf Road, 2nd Floor - Suite 204, Albany, New York 12205-2643

New York State Professional Assistance Program Surrender Statement

I, _____

do hereby voluntarily surrender my professional license to the Professional Assistance Program (PAP) of the New York State Education Department.

Profession(s) _____

License Number(s) _____

I agree to the following conditions:

- I will participate in a chemical dependency treatment/education program as approved by the Professional Assistance Program.
- I will not practice my licensed profession(s) until the official reinstatement of my license(s) or written approval by the PAP.*
- I will be monitored by the PAP for a minimum of two years from the time I return to my professional practice.

* Please include your registration certificate with your surrender statement.

I understand that I may petition the PAP to reinstate my license(s) when I am ready to resume practice.

Signature

Date

Print Name

New York State Professional Assistance Program Participant Agreement

Participant: Keep this Copy for Your Records

1. Execution of this Participant Agreement, grants the participant immunity by the Committee on Professional Assistance from two (2) counts of professional misconduct: 1. practicing the profession while the ability to practice is impaired by alcohol and/or drugs and 2. being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects.
2. I agree to completely abstain from all mood-altering and / or potentially addicting drugs or medications. This includes alcohol (including over the counter products containing alcohol), medical use marijuana and products containing CBD, as well as all medications, prescribed or over the counter.. In the event that such medications may be needed as legitimate medical treatment, I agree to notify the Professional Assistance Program (PAP) as soon as possible, before actual use, providing appropriate documentation from the prescriber describing the legitimate medical treatment.
3. I agree to abstain from food items containing poppy seeds, alcohol, CBD oil and herbal supplements/teas, which may produce a positive test result for drugs, marijuana or alcohol. I understand and agree that eating poppy seeds or using a food item that produces a positive urine drug screen will not be a valid excuse and I will be considered to have used a prohibited substance.
4. I agree to make all of my treating practitioners aware of my addiction history. If at any time I am prescribed a narcotic or other mood-altering substance for either acute or chronic pain, my prescribing practitioner must be aware I am in recovery. Whenever medication is prescribed, it is my responsibility to provide the practitioner with a form supplied by the PAP for the practitioner to fill out. It is my responsibility to return the completed form to the PAP.
5. I understand that I am required to submit a written plan for my recovery and a plan for relapse prevention at the time of license reinstatement. This plan is to be submitted to the Committee on Professional Assistance and my case manager and my SPAN Regional Coordinator if appropriate.
6. I understand that my toxicology screens must be witnessed (meaning that the observer must see urine coming from my body and going into the collection cup) and must be done randomly (meaning that there is no pattern to when I will be asked to give a urine sample, breathalyzer, or saliva strip, and I have no prior knowledge of when a screen will be collected). A blue room technique is also an acceptable collection method. I must be tested for my drug of choice.
7. I acknowledge that any positive urine drug screen is sufficient reason to be considered out of compliance with the PAP mandates and may result in a meeting with a panel of the Committee on Professional Assistance.
8. I agree that the PAP will monitor me for a minimum of two years post reinstatement of my license. Relapse or failure to comply with program mandates may extend or restart the monitoring.
9. I understand that if required, I must designate a worksite monitor who is approved by the PAP. I will identify my monitor within 30 days of returning to professional practice. I will provide my assigned case manager with the person's name, profession, address, and telephone number. I am responsible for ensuring that my monitors submit progress reports on my behalf on a monthly basis. When the PAP approves my worksite, treatment, or toxicology monitor, I will provide my monitor with a copy of my practice restrictions set by the Committee for Professional Assistance on my practice. I hereby give permission to my monitors to communicate with my PAP case manager on my progress.
10. I agree to submit to a medical, addiction, psychological, and/or mental health evaluation as requested by the Committee on Professional Assistance. I agree to have these evaluations obtained from sources acceptable to the PAP and to have the resulting reports sent to my PAP case manager.
11. I agree to notify the PAP when I have completed treatment and will provide the PAP with a discharge summary from my treatment provider. I understand that I must make arrangements to continue toxicology monitoring as mandated and approved by the PAP until I am successfully discharged from the PAP.
12. I understand that it is my responsibility to ensure that all my monitors (worksite, treatment, and toxicology) send in the required monthly / quarterly progress reports and toxicology results to the PAP no later than the 7th day of each month for the previous month. Failure to submit these reports in a timely manner will result in an out of compliance status.
13. I agree to contact my individual PAP case manager at a minimum of every 1 (one) month to discuss my progress and review my compliance with my monitoring.

14. I agree to notify the PAP as soon as possible of any changes in my condition including but not limited to my progress in recovery, name, address, telephone number, licensure circumstances, legal action or employment. I agree to notify the PAP at least 2 weeks in advance of any time away from my place of employment for any reason.
15. I understand that requests I make for modifications to my individual monitoring must be accompanied by supporting documentation from my treatment provider, a support group leader (i.e. SPAN), and / or worksite monitor.
16. Termination from the PAP will result in revocation of the immunity initially granted to me by the Committee on Professional Assistance and may result in disciplinary action from the Office of Professional Discipline.
17. I acknowledge that a key element to a successful recovery is participation in a support group with other members of my profession who are in recovery, if such groups exist (i.e. SPAN, PRN).
18. I understand that discharge from the PAP is not automatic. I will need to petition the PAP case manager and the Committee on Professional Assistance in writing for discharge. Successful completion of the PAP includes full compliance with all requirements for the period of time specified by the Committee on Professional Assistance, including a Discharge Meeting with the Committee on Professional Assistance.
19. I am licensed in the following state/states: _____ and hereby authorize the PAP to notify these Licensing Boards or Alternative to Discipline Programs in those states regarding my progress.
20. I acknowledge that I am not allowed to practice my profession in any other state while I am being actively monitored by the PAP.

I agree that my signature on this agreement signifies that I have read all the stipulations and I understand all the terms, conditions and responsibilities associated with it.

Signed this _____ day of _____ 20 _____

Signature

Print Name

Return Directly to: New York State Education Department, Professional Assistance Program, 80 Wolf Road, 2nd Floor - Suite 204, Albany, New York 12205-2643

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I agree that my signature on this agreement signifies that I have read all the stipulations and I understand all the terms, conditions and responsibilities associated with it.

Signed this _____ day of _____ 20_____

Signature

Print Name

Return Directly to: New York State Education Department, Professional Assistance Program, 80 Wolf Road, 2nd Floor - Suite 204, Albany, New York 12205-2643

New York State Professional Assistance Program Medication Report

Please fill out this form and return it to the PAP office. Please list **all** medications you are currently using. If you are not using any medications please check the box for 'NONE'. You may be required to obtain verification for any medications from your medical provider as needed by your case manager. If you have any questions, please call us at 518-485-9380.

Name of Participant _____

Prescription Information

Date of prescription	Name of Medication	Quantity & Dosage (no. of refills)	Reason for Medication
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NONE

I have informed my medical practitioner(s) that I am in recovery from alcohol and/or chemical dependency.

Signature _____

Date _____

Print Name _____

Telephone _____ Email _____

Return Directly to: New York State Education Department, Professional Assistance Program, 80 Wolf Road, 2nd Floor - Suite 204, Albany, New York 12205-2643

New York State Professional Assistance Program Application Checklist

Have you enclosed the following?

- Completed and Signed Application.
- Completed and signed Waivers with complete names, addresses and phone numbers.
- All current Registration Certificates (No copies) (Not applicable for N2N Admission.)
- Signed Surrender Statement (N2N admits must sign a surrender statement and will sign a reinstatement form at the hearing.)
- Participant Agreement (Return signed copy & keep a copy for your records.)
- A copy of your substance abuse diagnosis sent from your treatment provider (N2N applicants must include a psychosocial evaluation).
- If you are a nurse, have you contacted SPAN?
- A copy of this checklist.

Notice: Failure to enclose needed documentation could delay your admittance into the program.

Additional comments: