



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

July 20, 1995

Karen Schimke
Executive Deputy Commissioner

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Cindy Fascia, Esq.
NYS Dept. of Health
Rm. 2429 Corning Tower
Empire State Plaza
Albany, New York 12237

James C. Hopkins, Esq.
The Monroe Building
333 East Onondaga Street
Syracuse, New York 13202

Jeffrey A. Briggs, M.D.
556 Cardinal Drive
Pasadena, MD 21122

RECEIVED
JUL 21 1995
PROFESSIONAL MEDICAL CONDUCT

RE: In the Matter of Jeffrey Briggs, M.D.

Effective Date: 07/27/95

Dear Ms. Fascia, Mr. Hopkins and Dr. Briggs :

Enclosed please find the Determination and Order (No. 95-85) of the Professional Medical Conduct Administrative Review Board in the above referenced matter. This Determination and Order shall be deemed effective upon receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

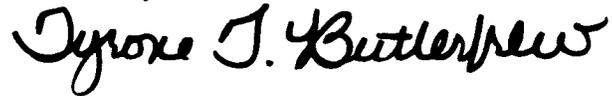
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

Office of Professional Medical Conduct
New York State Department of Health
Empire State Plaza
Corning Tower, Room 438
Albany, New York 12237

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

This exhausts all administrative remedies in this matter [PHL §230-c(5)].

Sincerely,

A handwritten signature in black ink that reads "Tyrone T. Butler". The signature is written in a cursive style with a large, prominent "T" and "B".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:

Enclosure

**STATE OF NEW YORK : DEPARTMENT OF HEALTH
ADMINISTRATIVE REVIEW BOARD FOR
PROFESSIONAL MEDICAL CONDUCT**

**IN THE MATTER
OF
JEFFREY BRIGGS, M.D.**

**ADMINISTRATIVE
REVIEW BOARD
DECISION AND
ORDER NUMBER
ARB NO. 95-85**

The Administrative Review Board for Professional Medical Conduct (hereinafter the "Review Board"), consisting of **ROBERT M. BRIBER, SUMNER SHAPIRO, WINSTON S. PRICE, M.D.¹, EDWARD C. SINNOTT, M.D.** and **WILLIAM A. STEWART, M.D.** held deliberations on June 13, 1995 to review the Hearing Committee on Professional Medical Conduct's (Hearing Committee) April 11, 1995 Determination finding Dr. Jeffrey Briggs (Respondent) guilty of professional misconduct. The Office of Professional Medical Conduct (Petitioner) requested the Review through a Notice which the Board received on April 25, 1995. James F. Horan served as Administrative Officer to the Review Board. Cindy M. Fascia, Esq. filed a brief for the Petitioner, which the Review Board received on May 30, 1995.

SCOPE OF REVIEW

New York Public Health Law (PHL) §230(10)(i), §230-c(1) and §230-c(4)(b) provide that the Review Board shall review:

- whether or not a hearing committee determination and penalty are consistent with the hearing committee's findings of fact and conclusions of law; and
- whether or not the penalty is appropriate and within the scope of penalties permitted by PHL §230-a.

¹Dr. Price participated in the deliberations by telephone.

Public Health Law §230-c(4)(b) permits the Review Board to remand a case to the Hearing Committee for further consideration.

Public Health Law §230-c(4)(c) provides that the Review Board's Determinations shall be based upon a majority concurrence of the Review Board.

HEARING COMMITTEE DETERMINATION

The Petitioner charged the Respondent with practicing medicine with moral unfitness and also charged the Respondent with verbal abuse, harassment or intimidation of a patient. These charges, involved a person whom the record refers to as Patient A. The Petitioner also charged that the Respondent had been found guilty of professional misconduct by medical disciplinary agencies of Maryland and Virginia, for engaging in sexual relationships with two patients and willfully making or filing false reports or records.

The Committee determined that the Respondent was not guilty of moral unfitness and not guilty of willful abuse, harassment or intimidation. The Committee found that while performing a colposcopy, a gynecologic procedure, on Patient A, the Respondent made light of what was happening, asked Patient A if she was having a good time and told Patient A that the Respondent was having a good time. The Committee found that the Respondent's remarks made Patient A feel uncomfortable and threatened, and concluded that the remarks were offensive, inappropriate, tasteless and lacking in sensibility. The Committee determined, however, that the Respondent's conduct toward Patient A was not done to harass, abuse or intimidate Patient A and did not evidence moral unfitness. The Committee concluded that the Respondent's remarks demonstrated a lack of insight, but did not violate the moral standards of the profession or the trust the Patient placed in the Respondent.

The Committee did conclude that the Respondent was guilty of misconduct, because the Respondent was disciplined by the disciplinary agencies from the State of Maryland and Virginia for actions which would constitute misconduct if committed in New York.

The Committee found that the Maryland Board of Physician Quality Assurance (Maryland Board) had found that the Respondent committed acts in that state that would constitute willfully filing a false report, failing to maintain adequate records, moral unfitness in the practice of medicine and practicing medicine fraudulently. The Committee found that the Respondent entered into an interim Consent Order with the Maryland Board which included findings that the Respondent had engaged in sexual relationships with two of his patients, that the Respondent had provided treatment and prescribed medication for the patients while intimately involved with them, had made false entries in the patients' records, had misrepresented a patient's identity to a physician to whom the Respondent referred the patient and failed to document procedures performed and prescriptions issued in that patient's record. The Maryland Board placed the Respondent on probation for three years in a supervised practice setting, ordered the Respondent undergo psychotherapy and complete an ethics course, and have a female chaperon present during all examinations and treatment of female patients.

The Board of Medicine of the State of Virginia found that the Respondent had affirmed in a November 19, 1992 surrender letter to the Maryland Board that he did not possess a license to practice in another state, when in fact the Respondent had a Virginia license and had made reapplication for the Virginia license on November 5, 1992. The Virginia Board also found the Respondent guilty of misconduct based on the misconduct findings from the Maryland Board. The Virginia Board suspended the Respondent's license for not less than one year, until such time as the Respondent obtained a full and unrestricted license in Maryland.

The New York Hearing Committee found that the Respondent's lack of integrity, character and moral fitness were evident in his course of conduct in Maryland. The Committee found that the consensual nature of his relationships with the two Maryland patients did not absolve the Respondent from fault. The Committee noted that the Respondent had completed psychiatric evaluation and treatment in Maryland and that the Petitioner did not place the Respondent's clinical competence at issue. The Committee concluded that the Respondent's misconduct in Maryland warranted monitoring for three years. The Committee placed the Respondent on three years probation, with terms requiring

that the Respondent submit proof that he has completed successfully the Maryland ethics course, work only under clinical supervision and that a disinterested female third party monitor be present during examinations and treatment for female patients.

REQUESTS FOR REVIEW

The Petitioner has requested that the Review Board overturn the Hearing Committee's finding dismissing the wilful harassment/abuse charge and has asked that the Review Board overturn the Hearing Committee's penalty.

The Petitioner contends that the Committee's findings concerning the Respondent's conduct towards Patient A supports a determination that the Respondent's conduct constituted willful verbal abuse or harassment. The Petitioner contends that the Respondent's conduct was willful because his actions were voluntary and intentional and that it was not necessary to demonstrate that the Respondent intended to harass or abuse Patient A.

The Petitioner argues further that the Hearing Committee's penalty is not appropriate or adequate based on the seriousness of the Maryland misconduct alone. The Petitioner contends that the Hearing Committee's penalty will be inadequate. The Petitioner notes that the Respondent worked in a group practice when his actions toward Patient A in New York occurred, so that working in a supervised setting would not stop the Respondent from committing further misconduct. The Petitioner notes that the Respondent's conduct toward Patient A also occurred while an employee of the Respondent, Shelley Wilcox was present in the room, so that a female chaperon will not be a deterrent to further misconduct by the Respondent. The Committee had found that the Respondent and Ms. Wilcox were involved in a relationship at the time of Patient A's appointment with the Respondent (Hearing Committee Finding of Fact 21, page 7).

The Petitioner argues that the Respondent's misconduct in Maryland and Virginia demonstrates that the Respondent has a history of engaging in serious professional misconduct with his patients and demonstrates that he lacks the moral character and ethical competence necessary to practice medicine. The Petitioner contends that the Respondent's conduct towards Patient A

demonstrates that the Respondent continues to pose a risk to his patients, even after Maryland and Virginia disciplined the Respondent. The Petitioner asks that the Review Board revoke the Respondent's license to practice in New York State.

The Respondent did not file a brief or a reply brief.

REVIEW BOARD DETERMINATION

The Review Board has considered the entire record below and the briefs which counsel have submitted.

The Review Board votes to sustain the Hearing Committee's Determination that the Respondent was not guilty of the willful harassment/abuse charge. The Board agrees with the Hearing Committee's assessment of the insensitive and tasteless nature of the Respondent's comments to Patient A. We also agree that the Respondent's comments did not rise to the level of abuse or harassment. The Respondent may well have intended the remarks as a way to put a new patient at ease during the procedure. The remarks did demonstrate a lack of insight, but did not violate the moral standards of the profession or the trust the Patient placed in the Respondent.

The Review Board sustains the Committee's Determination finding the Respondent guilty of professional misconduct due to the findings by the disciplinary Boards in Virginia and Maryland.

The Review Board votes unanimously to overturn the Hearing Committee's penalty and to revoke the Respondent's license to practice medicine in New York State. The Board overturns the Hearing Committee's penalty because the Board feels that the Committee's three year monitoring penalty was not consistent with the Committee's findings concerning the serious nature of the Respondent's misconduct.

The Hearing Committee found that the Respondent's lack of integrity, character and moral fitness were evident in the course of his Maryland conduct and that the consensual nature of the Respondent's conduct did not absolve him from fault. The Review Board notes that the Respondent also engaged in untruthful conduct to hide the nature of his relationships with those two patients by making false entries in the patients' records and by misrepresenting one patient's identity to a

physician to whom the Respondent referred the patient. The Respondent engaged in further untruthful conduct when he affirmed to the Maryland Board that he did not possess a license in any other state, when in fact he held a license in Virginia, for which he had reapplied just two weeks previously.

The Review Board also believes that the Hearing Committee's penalty is inappropriate as a sanction against the Respondent or as a deterrent to the Respondent or to others. The Committee found that even after the Respondent entered a Consent agreement with Maryland which allowed him to retain his Maryland license, the Respondent then made an intentional misrepresentation to Maryland that the Respondent held no license in another state, when the Respondent was licensed in Virginia. Further, even after the Maryland action, the Respondent demonstrated an insensitivity to patients through his conduct toward Patient A. The Committee's penalty including a supervised setting and a chaperon will not be deterrents to future insensitive actions by the Respondent, as the Respondent's conduct toward Patient A occurred while the Respondent practiced in a group practice and had an employee, Ms. Wilcox, present in the room when the Respondent examined Patient A.

The Respondent's conduct in Maryland demonstrates that the Respondent is not fit to practice in New York. The fact that neither Maryland nor Virginia revoked the Respondent's license in those states does not foreclose New York from taking such action. The Review Board is responsible to assess the penalty for the Respondent based on the serious nature of the Respondent's misconduct and the need to protect the people of New York.

Physicians can not have sexual relationships with their patients. Further, physicians must be persons of integrity and must be truthful when preparing patient records, when communicating with other physicians and when dealing with the government. The Respondent has demonstrated that he lacks the integrity, character and moral fitness necessary to practice medicine in this State.

ORDER

NOW, based upon this Determination, the Review Board issues the following **ORDER**:

1. The Review Board **SUSTAINS** the Hearing Committee on Professional Medical Conduct's April 11, 1995 Determination finding Dr. Jeffrey Briggs guilty of professional misconduct.
2. The Review Board **OVERTURNS** the penalty which the Hearing Committee imposed through their April 11, 1995 Determination.
3. The Review Board **VOTES** 5-0 to **REVOKE** the Respondent's license to practice medicine in New York State.

ROBERT M. BRIBER

SUMNER SHAPIRO

WINSTON S. PRICE, M.D.

EDWARD SINNOTT, M.D.

WILLIAM A. STEWART, M.D.

IN THE MATTER OF JEFFREY BRIGGS, M.D.

ROBERT M. BRIBER, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Briggs.

DATED: Albany, New York

7/18, 1995



ROBERT M. BRIBER

IN THE MATTER OF JEFFREY BRIGGS, M.D.

SUMNER SHAPIRO, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Briggs.

DATED: Delmar, New York

July 14, 1995

A handwritten signature in cursive script, reading "Sumner Shapiro", is written over a solid horizontal line.

SUMNER SHAPIRO

IN THE MATTER OF JEFFREY BRIGGS, M.D.

WINSTON S. PRICE, M.D., a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Briggs.

DATED: Brooklyn, New York

_____, 1995

A handwritten signature in cursive script, appearing to read "W. S. Price", is written over a solid horizontal line.

WINSTON S. PRICE, M.D.

IN THE MATTER OF JEFFREY BRIGGS, M.D.

EDWARD C. SINNOTT, M.D., a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Briggs.

DATED: Roslyn, New York

June 29, 1995

A handwritten signature in cursive script, appearing to read "Edward C. Sinnott", with a horizontal line underneath and a small mark at the end.

EDWARD C. SINNOTT, M.D.

IN THE MATTER OF JEFFREY BRIGGS, M.D.

WILLIAM A. STEWART, M.D., a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Briggs.

DATED: Syracuse, New York

30 June, 1995

A handwritten signature in cursive script that reads "William A. Stewart". The signature is written in black ink and is positioned above a horizontal line.

WILLIAM A. STEWART, M.D.