



# STATE OF NEW YORK DEPARTMENT OF HEALTH

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

Mark R. Chassin, M.D. M.P.P., M.P.H.  
*Commissioner*

Paula Wilson  
*Executive Deputy Commissioner*

May 11, 1994

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

<sup>L</sup>  
George ~~X~~ Colvin, M.D.  
224 N. Wellwood Avenue  
Lindenhurst, New York 11757

Amy T. Kulb, Esq.  
Jacobson & Goldberg  
585 Stewart Avenue  
Garden City, New York 11530

Daniel Gunezburger, Esq.  
NYS Department of Health  
Metropolitan Regional Office  
5 Penn Plaza - Sixth Floor  
New York, New York 10001

**RE: In the Matter of George Colvin, M.D.**

Dear Dr. Colvin, Ms. Kulb, and Mr. Gunezburger:

Enclosed please find the Determination and Order (No.93-195) 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.

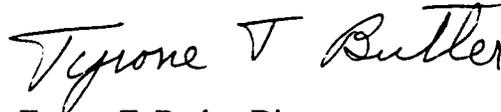
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified 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 cursive script that reads "Tyrone T. Butler".

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:lar

Enclosure

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

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IN THE MATTER	:	<u>ADMINISTRATIVE</u>
	:	<u>REVIEW BOARD</u>
OF	:	<u>DETERMINATION</u>
	:	<u>AND ORDER</u>
GEORGE T. COLVIN, D.O.	:	<u>NO. BPMC-93-195</u>

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The Administrative Review Board for Professional Medical Conduct (hereinafter the "Review Board"), consisting of ROBERT M. BRIBER, MARYCLAIRE B. SHERWIN, WINSTON S. PRICE, M.D., EDWARD C. SINNOTT, M.D. and WILLIAM A. STEWART, M.D. held deliberations on February 8, 1994<sup>1</sup> and March 4, 1994<sup>2</sup> to review the Hearing Committee on Professional Medical Conduct's (Hearing Committee) November 26, 1993 Determination finding Dr. George Colvin guilty of professional misconduct. The Respondent requested the review through a notice which the Board received on December 17, 1994. James F. Horan served as Administrative Officer to the Review Board. Amy T. Kulb, Esq. submitted a brief on the Respondent's behalf on January 19, 1994 and a response brief on January 25, 1994. Daniel Guenzburger, Esq. submitted a brief on the Petitioner's behalf on January 27, 1994.

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<sup>1</sup> Dr. Price was unable to participate in the February 8, 1994 deliberation due to inclement weather.

<sup>2</sup> Drs. Stewart, Sinnott, and Price participated in the March 4, 1994 deliberation by conference call.

### 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.

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 Office of Professional Medical Conduct charged the Respondent with negligence on more than one occasion, incompetence on more than occasion and failing to maintain adequate records. The charges involved the Respondent's practice as a radiologist and the services which the Respondent provided in connection with the treatment of five persons, Patients A through E.

The Hearing Committee determined that the Respondent was guilty of negligence on more than one occasion and incompetence on more than one occasion in the cases of Patient's A, B, D and E. The Committee found that the Respondent had failed to maintain

adequate records for Patients A and D. The Hearing Committee made no findings in the case of Patient C. The Committee noted that the Respondent practices both Radiology and general medicine, but that all of their findings as to negligence, incompetence and inadequate record keeping came in relation to the Respondent's practice as a Radiologist.

The Hearing Committee found that the Respondent had deviated from acceptable medical practice; that he had failed to adequately supervise the production of the x-rays for Patients A, B, D and E; and that he had used an out-of date technique in diagnosing the condition of Patient A, which had no practical diagnostic value. The Committee voted to revoke the Respondent's license to practice medicine in the State of New York. The Committee felt there was no way to limit the Respondent from practicing Radiology but allow the Respondent to continue the general practice of medicine. The Committee also fined Dr. Colvin Forty Thousand (\$40,000) dollars.

#### REQUESTS FOR REVIEW

The Respondent contends that the Hearing Committee's penalty is too severe and that the Hearing Committee erred in concluding that they could not impose a penalty less severe than revocation. The Respondent argues that because there were no findings of misconduct concerning the Respondent's general practice, that the Committee could have limited the Respondent's license only to forbid the Respondent from practicing Radiology. The Respondent contends further that the Hearing Committee

explored issues in the hearing beyond those raised by the Statement of Charges. The Petitioner also contends that the Hearing Committee's Forty Thousand (\$40,000) dollar fine against Dr. Colvin was excessive.

The Petitioner urges the Review Board to sustain the Hearing Committee's Determination and Penalty.

#### 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 and Order finding Dr. Colvin guilty of negligence and incompetence on more than one occasion and of failure to maintain adequate records. The Determination is consistent with the Committee's findings and conclusions.

The Review Board votes to sustain the Hearing Committee's Determination to revoke Dr. Colvin's license to practice medicine in New York. That penalty is consistent with the Committee's findings and conclusions that the Respondent was guilty of repeated acts of negligence and incompetence and the penalty is appropriate in view of the Committee's findings and conclusions that the Respondent was guilty of repeated acts of negligence and incompetence. The Review Board votes further to sustain the Hearing Committee's Determination to fine Dr. Colvin Forty Thousand (\$40,000.00) Dollars. Public Health Law Section 230-a permits a Hearing Committee to impose a fine up to Ten Thousand (\$10,00.00) Dollars for each sustained specification of

charges. The Hearing Committee sustained four specifications against Dr. Colvin.

ORDER

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

1. The Review Board sustains the Hearing Committee's Determination finding Dr. George Colvin guilty of professional misconduct.

2. The Review Board sustains the Hearing Committee's Determination to revoke Dr. Colvin's license to practice medicine in New York State.

3. The Review Board sustains the Hearing Committee's Determination to fine Dr. Colvin Forty Thousand (\$40,000.00) Dollars.

ROBERT M. BRIBER

MARYCLAIRE B. SHERWIN

WINSTON S. PRICE, M.D.

EDWARD SINNOTT, M.D.

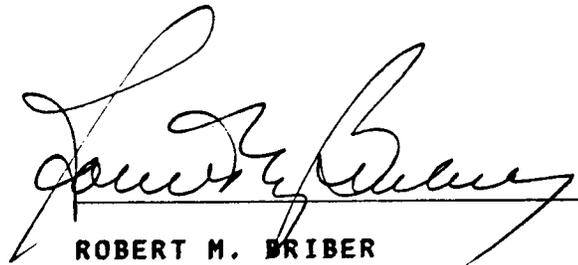
WILLIAM B. STEWART, M.D.

**IN THE MATTER OF GEORGE COLVIN, D.O.**

**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. Colvin.

**DATED: Albany, New York**

*April 4*, 1994

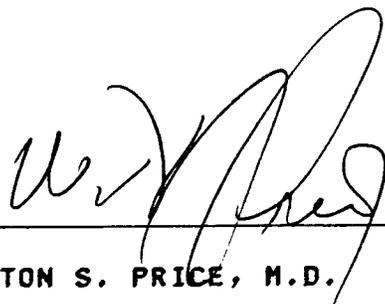


**ROBERT M. BRIBER**

**IN THE MATTER OF GEORGE COLVIN, D.O.**

**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. Colvin.

**DATED: Brooklyn, New York**  
**, 1994**

  
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**WINSTON S. PRICE, M.D.**

IN THE MATTER OF GEORGE COLVIN, D.O.

MARYCLAIRE B. SHERWIN, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Colvin.

DATED: Albany, New York

*April 15*, 1994

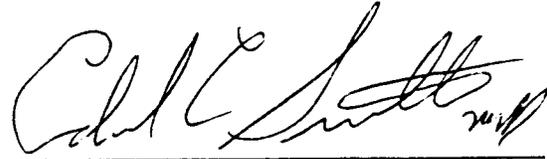
*Maryclaire B. Sherwin*  
MARYCLAIRE B. SHERWIN

**IN THE MATTER OF GEORGE COLVIN, D.O.**

**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. Colvin.

**DATED: Albany, New York**

*April 21* , 1994

A handwritten signature in black ink, appearing to read "Edward C. Sinnott, M.D.", written over a horizontal line.

**EDWARD C. SINNOTT, M.D.**

