



# STATE OF NEW YORK DEPARTMENT OF HEALTH

K. Tanner

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

August 25, 1992

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Octavio A. Luriano, M.D.  
312 East Prospect Avenue  
Mount Vernon, New York 10550

Michael Hiser, Esq.  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower - Room 2438  
Empire State Plaza  
Albany, New York 12237-0028

**RE: In the Matter of Octavio A. Liriano, M.D.**

Dear Dr. Luriano and Mr. Hiser:

Enclosed please find the Determination and Order (No. BPMC-92-43-A) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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  
Corning Tower - Fourth Floor (Room 438)  
Empire State Plaza  
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 than 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)].

Very truly yours,

*Tyrone T. Butler, nam*

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:nam  
Enclosure

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

-----X  
IN THE MATTER :

OF :

OCTAVIO A. LIRIANO, M.D. :  
-----X

ADMINISTRATIVE  
REVIEW BOARD  
DETERMINATION  
AND  
ORDER

ORDER NO. BPMC-92-43-A

A quorum of the Administrative Review Board for Professional Medical Conduct (hereinafter the "Review Board"), consisting of Robert M. Briber, Maryclaire B. Sherwin, Edward C. Sinnott, M.D. and William A. Stewart, M.D.<sup>1</sup> held deliberations on August 6, 1992 to review the Professional Medical Conduct Hearing Committee's (hereinafter the "Hearing Committee") June 4, 1992 Determination revoking Dr. Octavio A. Liriano's license to practice medicine in New York State. Dr. Liriano requested the review through a Notice of Appeal received by the Board on June 24, 1992. James F. Horan, Esq., served as Administrative Officer to the Review Board. Michael A. Hiser, Esq. submitted a brief on behalf of the Department of Health. Dr. Liriano did not submit a brief.

---

<sup>1</sup> At the time at which the Administrative Review Board met to deliberate this case, the New York State Senate had confirmed only four members of the five-member Administrative Review Board that was created pursuant to Chapter 606 of the Laws of 1991.

### 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.

PHL §230-c(4)(b) permits the Review Board to remand a case to the hearing committee for further consideration.

PHL §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 Department of Health brought this case against Dr. Liriano pursuant to Public Health Law §230(10)(p) and Education Law §6530(9), which provide for an expedited hearing when a licensee faces charges alleging misconduct based solely

upon a prior criminal conviction in New York State or another jurisdiction, or a prior administrative adjudication concerning conduct which would amount to professional misconduct if committed in New York. During an expedited hearing, the Hearing Committee determines the nature and severity of penalty to impose on the licensee based upon the criminal conviction or prior administrative adjudication.

The Hearing Committee in this case determined that the Department had met its burden in proving that Dr. Liriano was convicted in New York State Supreme Court for the following 21 felonies: grand larceny in the second degree (New York Penal Law §155.40), 10 counts of offering a false instrument for filing (New York Penal Law §175.35) and 10 counts of falsifying business records (New York Penal Law §175.10). The convictions arose from the Respondent's billing for services to the Medicaid system for \$361,962.50 to which the Respondent was not entitled. Respondent was sentenced to one to three years imprisonment and to pay restitution amounting to \$379,861.50.

Based upon these felony convictions, the Hearing Committee voted unanimously to revoke the Respondent's license to practice medicine in New York State.

**REVIEW BOARD DETERMINATION**

The Review Board considered the entire record in this matter, the Hearing Committee's Determination and Order and the Department's Brief. The Board votes unanimously to sustain the Hearing Committee's Determination. The Committee's Findings of Fact and Conclusions are consistent and are supported by the evidence which was before the Hearing Committee.

Although the Respondent requested this Review, he failed to submit any arguments to the Review Board as to why the penalty which the Committee imposed is inappropriate or inconsistent with the Hearing Committee's Findings of Fact. The Review Board votes unanimously to sustain the revocation penalty. The penalty is consistent with the findings and conclusions that the Respondent was convicted of a felony arising from defrauding the State of hundreds of thousands of dollars intended for medical care for

indigent persons. The penalty is appropriate under Public Health Law Section 230-a.

**ORDER**

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

1. The June 4, 1992 Determination by the Hearing Committee on Professional Medical Conduct is hereby sustained.
2. The Hearing Committee's Determination revoking the license of Octavio A. Liriano, M.D. to practice medicine in the State of New York is sustained.

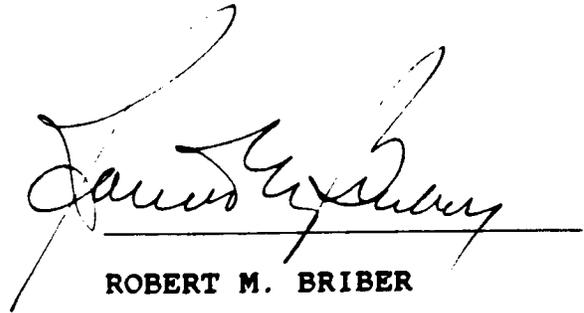
ROBERT M. BRIBER  
MARYCLAIRE B. SHERWIN  
EDWARD C. SINNOTT, M.D.  
WILLIAM A. STEWART, M.D.

IN THE MATTER OF OCTAVIO A. LIRIANO, 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. Liriano.

DATED: Albany, New York

August 6, 1992



Handwritten signature of Robert M. Briber, written in cursive over a horizontal line.

ROBERT M. BRIBER

IN THE MATTER OF OCTAVIO A. LIRIANO, M.D.

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. Liriano.

DATED: Malone, New York

August 6, 1992

Maryclaire B. Sherwin

MARYCLAIRE B. SHERWIN

IN THE MATTER OF OCTAVIO A. LIRIANO, 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. Liriano.

DATED: Syracuse, New York

August 6, 1992

A handwritten signature in cursive script that reads "William A. Stewart". The signature is written in dark ink and is positioned above the printed name.

WILLIAM A. STEWART, M.D.

IN THE MATTER OF OCTAVIO A. LIRIANO, 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. Liriano.

DATED: Roslyn, New York

August 6, 1992

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

EDWARD C. SINNOTT, M.D.