

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

September 7, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Vahe Boyadjian, P.A.
883 Blvd. East, Apt. 1B
Weehawken, New Jersey 07087

Jan Levien, Esq.
Levien & Zwal
250 West 57th Street
New York, New York 10107

Sylvia P. Finkelstein, Esq.
Associate Counsel
NYS Department of Health
5 Penn Plaza - Sixth Floor
New York, New York 10001

Effective Date: 9/14/94

RE: In the Matter of Vahe Boyadjian, P.A.

Dear Mr. Boyadjian, Ms. Levien and Ms. Finkelstein :

Enclosed please find the Determination and Order (No. 94-80) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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" followed by a date "2/20/21". The signature is written in a cursive style.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:mmn

Enclosure

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

**IN THE MATTER
OF
VAHE P. BOYADJIAN, P.A.**

**ADMINISTRATIVE
REVIEW BOARD
DECISION AND
ORDER NUMBER
ARB 94-80**

The Administrative Review Board for Professional Medical Conduct (hereinafter the "Review Board"), consisting of **ROBERT M. BRIBER, WINSTON S. PRICE, M.D., SUMNER SHAPIRO, EDWARD C. SINNOTT, M.D. and WILLIAM A. STEWART, M.D.** held deliberations on August 12, 1994 to review the Hearing Committee on Professional Medical Conduct's (Hearing Committee) June 13, 1994 Determination finding Vahe Boyadjian (Respondent) guilty of professional misconduct. The Respondent requested the review through a Notice which the Board received on June 27, 1994. Jan Levien, Esq. submitted a brief on the Respondent's behalf on July 19, 1994. Sylvia Pastor Finkelstein, Esq. submitted a response for the Office of Professional Medical Conduct (Petitioner) on August 3, 1994.

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 fraudulently obtaining a Physician's Assistant registration and practicing the profession fraudulently. The charges arose from the Respondent's answers on his application for registration as a Physician's Assistant and his application for appointment to the Staff at Bronx-Lebanon Hospital Center.

The Hearing Committee found that the Respondent had been convicted on two counts of Sexual Abuse in the Third Degree, a misdemeanor, following a trial in New York County Supreme Court on January 14, 1987. The Committee found that in applying for registration as a Physician's Assistant in 1989, that the Respondent had answered "no" to questions on the application asking whether the Respondent had ever been convicted of a crime or ever charged with a crime in which the disposition of the charges was other than an acquittal or dismissal. The Committee found that the Respondent's answer to those questions constituted obtaining registration as a Physician's Assistant fraudulently and practicing the profession fraudulently.

The Hearing Committee found further that the Respondent had applied for staff appointment at the Bronx-Lebanon Hospital Center in 1990. The Committee found that the Respondent had answered "no" to a question on the application for staff appointment which asked whether the Respondent had ever been convicted of a crime. The Committee found further that the Respondent had answered "no" to a question on the application which asked whether the respondent had ever had his employment at a hospital terminated. The Committee found that the Respondent had been terminated from the residency program at Cabrini Medical Center in 1976 for forging two reference letters. The Committee found that the Respondent's answers on the Bronx-Lebanon application constituted practicing the profession fraudulently.

The Hearing Committee voted to revoke the Respondent's registration to practice as a Physician's Assistant. The Committee found that the Respondent was not a credible witness and did not credit the testimony which the Respondent offered in mitigation. The Committee determined

that the Respondent demonstrated dishonesty on multiple occasions. The Committee determined that honesty is an important characteristic for a Physician's Assistant and can not be compromised.

REQUESTS FOR REVIEW

The Respondent contends that the Hearing Committee's penalty is beyond the penalty that is warranted based on the misconduct in this case and cites to several decisions by the Board of Regents in which physicians guilty of similar misconduct received lesser penalties such as suspensions, fines or community service. The Respondent's counsel states that the Respondent would be willing to undergo psychological therapy or treatment, probation, educational courses or perform public service. The Respondent contends that any combinations of those sanctions would be far more suitable for the offenses involved in this case.

The Petitioner argues that none of the cases which the Respondent cites support the Respondent's request for a reduction in the penalty because none of the cited cases deal with charges of fraudulently obtaining a license and because in this case the Respondent knowingly withheld information about his prior conviction for a misdemeanor. The Petitioner contends that the Committee's penalty is appropriate in light of the circumstances and the Committee's specific findings.

REVIEW BOARD DETERMINATION

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

The Review Board votes to sustain the Hearing Committee's Determination finding the Respondent guilty of fraudulently obtaining a license and practicing the profession fraudulently. The Committee's Determination is consistent with the Committee's findings that the Respondent lied upon his application for registration as a Physician's Assistant and lied upon his application for staff appointment at Bronx-Lebanon Hospital.

The Review Board votes to sustain the Hearing Committee's Determination revoking

the Respondent's registration as a Physician's Assistant. The Respondent has demonstrated a pattern of untruthful behavior which indicates a lack of the integrity that is necessary to practice as a Physician's Assistant. The Respondent withheld information about his conviction for sexual abuse from his application for registration and his application for staff appointment. The fact that an applicant has a history of criminal convictions for sexual abuse is certainly relevant to a licensing authority and a potential employer, who must determine whether the applicant can safely provide care to patients. The Review Board believes that the Respondent would have probably experienced difficulty in obtaining his Physician's Assistant registration if he had been truthful concerning his criminal convictions. To allow the Respondent to keep the registration that he acquired through fraud, would be to reward the Respondent's fraudulent actions. The Hearing Committee penalty is appropriate in light of the facts in this case.

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ORDER

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

ORDER:

1. The Administrative Review Board **sustains** the Hearing Committee's Determination finding the Respondent Vahe Boyadjian guilty of fraudulently obtaining a registration as a Physician's Assistant and fraudulently practicing the profession.
2. The Review Board **sustains** the Hearing Committee's Determination revoking the Respondent's registration to practice as a Physician's Assistant in New York State.

ROBERT M. BRIBER

SUMNER SHAPIRO

WINSTON S. PRICE, M.D.

EDWARD SINNOTT, M.D.

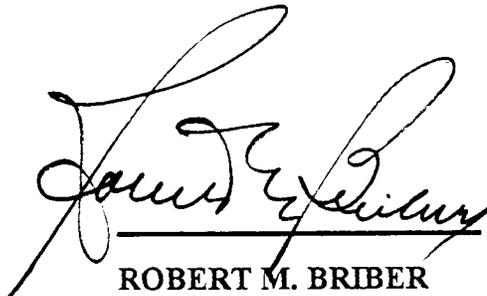
WILLIAM A. STEWART, M.D.

IN THE MATTER OF VAHE BOYADJIAN, P.A.

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

DATED: Albany, New York

Aug 19, 1994


ROBERT M. BRIBER

IN THE MATTER OF VAHE BOYADJIAN, P.A.

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 Mr. Boyadjian.

DATED: Syracuse, New York

17 Aug, 1994



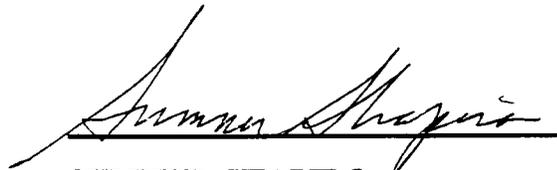
WILLIAM A. STEWART, M.D.

IN THE MATTER OF VAHE BOYADJIAN, P.A.

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

DATED: Delmar, New York

AUGUST 17, 1994

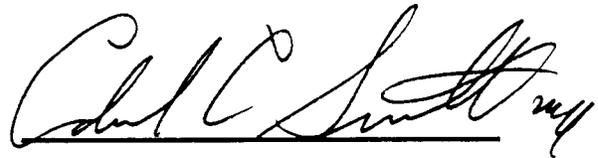

SUMNER SHAPIRO

IN THE MATTER OF VAHE BOYADJIAN, P.A.

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 Mr. Boyadjian.

DATED: Roslyn, New York

Aug 7, 1994

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

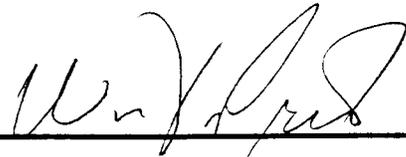
EDWARD C. SINNOTT, M.D.

IN THE MATTER OF VAHE BOYADJIAN, P.A.

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 Mr. Boyadjian.

DATED: Brooklyn, New York

_____, 1994

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

WINSTON S. PRICE, M.D.