



# STATE OF NEW YORK DEPARTMENT OF HEALTH

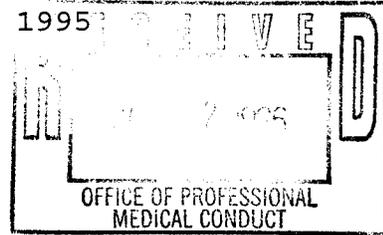
Corning Tower      The Governor Nelson A. Rockefeller Empire State Plaza      Albany, New York 12237

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

Karen Schimke  
*Executive Deputy Commissioner*

NEW YORK STATE DEPARTMENT OF HEALTH 19

December 27, 1995



CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Yang E. Lee, M.D.  
82 Dartmouth Street  
Forest Hills, NY 11375

Arnold J. Goldstein, Esq.  
Goldstein & Goldstein  
26 Court Street-20th Floor  
Brooklyn, NY 11242

David W. Smith, Esq.  
NYS Dept. of Health  
5 Penn Plaza-6th Floor  
New York, NY 10001

RE: In the Matter of Yang E. Lee, M.D.

Dear Dr. Lee, Mr. Goldstein and Mr. Smith:

Upon reviewing the November 16, 1995 Evaluation by the Physician Prescribed Education Program, the Administrative Review Board for Professional Medical Conduct has remanded this case to the original Hearing Committee for further proceedings, as specified in the Review Board's attached Remand Order.

Sincerely,

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:JFH:rlw

Enclosure

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

IN THE MATTER  
OF  
YANG E. LEE, M.D.

ADMINISTRATIVE  
REVIEW BOARD  
REMAND ORDER

NEW YORK'S STATE DEPARTMENT OF HEALTH '99

On December 1, 1995, a quorum of the Administrative Review Board for Professional Medical Conduct (hereinafter the "Review Board")<sup>1</sup>, consisting of **ROBERT M. BRIBER, SUMNER SHAPIRO, EDWARD C. SINNOTT, M.D.** and **WILLIAM A. STEWART, M.D.** met to review the November 16, 1995 Phase I Evaluation Report for the Respondent Yang E. Lee, M.D., from the Physician Prescribed Education Program (PPEP) in Syracuse. After reviewing the PPEP Evaluation, we remand this case to the Hearing Committee for their review of the PPEP Evaluation and for further consideration of an appropriate penalty in this case.

A Hearing Committee for Professional Medical Conduct rendered a Determination on August 10, 1994 which found the Respondent guilty for negligence on more than one occasion and for ordering excessive tests. The Hearing Committee voted to censure and reprimand the Respondent and ordered that he practice with a monitor for two years. Following the Committee's Determination, the Petitioner filed a Notice of Review and requested that the Review Board modify the Hearing Committee's Determination to require a PPEP Evaluation, and if necessary, retraining followed by two years with a practice monitor. The Respondent opposed any modification in the Hearing Committee's penalty.

In our January 13, 1995 Determination in this case, the Review Board ordered that the Respondent undergo the PPEP Phase I Evaluation to determine whether the Respondent possessed basic medical knowledge to practice safely and effectively. We stated at that time, that because the Respondent had not testified at the hearing, we were unable to ascertain whether the Respondent's

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<sup>1</sup>Dr. Winston S. Price did not participate in the deliberations.

misconduct resulted from the demands associated with a busy inner-city practice or whether the Respondent's mistakes resulted from an underlying lack of knowledge or skill. The Review Board found that the reason underlying the misconduct makes a difference as to whether the Respondent's deficiencies can be corrected by working with a practice monitor or whether the Respondent would need to undergo a course of retraining.

The Review Board now finds that the November 16, 1995 PPEP Evaluation fails to answer the question which the Review Board posed in referring the Respondent for the Evaluation. The Review Board asked PPEP whether the Respondent could practice medicine safely and effectively. The PPEP Evaluation did not discuss whether the Respondent could practice safely and effectively, but rather concluded that the Respondent is capable of benefiting from an educational program.

In the absence of a PPEP Evaluation which indicates whether or not the Respondent possesses sufficient knowledge and skill to practice medicine safely and effectively, the Review Board remands this case to the Hearing Committee for a clarification of their initial penalty. The Review Board asks the Hearing Committee to conduct additional deliberations and issue a Supplemental Determination. The Review Board asks the Committee to discuss whether they determined that the Respondent's pattern of substandard practice resulted from a lack of skill or knowledge or rather from the demands of an inner-city practice. The Committee should discuss whether a monitor would be sufficient to correct the Respondent's deficiencies or whether the more formalized retraining outlined in the PPEP Evaluation would be necessary. The Hearing Committee may request submissions from the parties if they feel the submissions would aid in their deliberations. The Committee shall serve their Supplemental Determination upon the parties and upon the Review Board. Within twenty-one days from receiving the Hearing Committee's Supplemental Determination, each party may file a brief with the Review Board commenting on the Hearing Committee's Supplemental Determination. The Review Board will then consider the Supplemental Determination and any briefs and render a final Determination on the appropriate penalty in this case. The Hearing Committee's original penalty in this case remains stayed pending the Final Determination by the Review Board.

**ORDER**

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

1. The Review Board **REMANDS** this case to the Hearing Committee for further proceedings as we outlined in our Determination.

**ROBERT M. BRIBER**

**SUMNER SHAPIRO**

**EDWARD SINNOTT, M.D.**

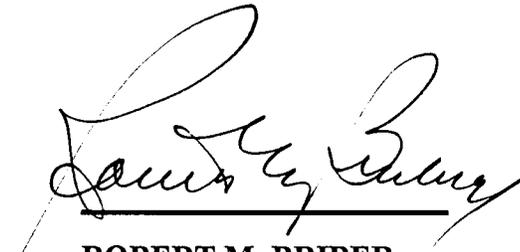
**WILLIAM A. STEWART, M.D.**

**IN THE MATTER OF YANG E. LEE, M.D.**

**ROBERT M. BRIBER**, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Remand Order in the Matter of Dr. Lee.

**DATED: Schenectady, New York**

12/20, 1995



**ROBERT M. BRIBER**

**IN THE MATTER OF YANG E. LEE, M.D.**

**SUMNER SHAPIRO**, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Remand Order in the Matter of Dr. Lee.

**DATED: Delmar, New York**

Dec 20, 1995

  
**SUMNER SHAPIRO**

**IN THE MATTER OF YANG E. LEE, M.D.**

**EDWARD C. SINNOTT, M.D.**, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Remand Order in the Matter of Dr. Lee.

**DATED: Roslyn, New York**

Dec 19, 1995

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

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

**IN THE MATTER OF YANG E. LEE, M.D.**

**WILLIAM A. STEWART, M.D.**, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Remand Order in the Matter of Dr. Lee.

**DATED: Syracuse, New York**

15 Dec, 1995



**WILLIAM A. STEWART, M.D.**