



STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

December 20, 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Omar Patxot, M.D.
104 West 70th Street
Apartment 4H
New York, New York 10023

Jean Bresler, Esq.
NYS Department of Health
145 Huguenot Street
New Rochelle, New York 10801

Steven M. Klein, Esq.
1168-70 Troy Schenectady Road
P.O. Box 12414
Albany, New York 12212-2414

RE: In the Matter of Omar Patxot, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 00-210) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
Hedley Park Place
433 River Street-Fourth Floor
Troy, New York 12180

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, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial 'T'.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:cah

Enclosure

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

COPY

In the Matter of

Omar Patxot, M.D. (Respondent)

Administrative Review Board (ARB)

A proceeding to review a Determination by a
Committee (Committee) from the Board for
Professional Medical Conduct (BPMC)

Determination and Order No. 00- 210

Before ARB Members Grossman, Lynch, Pellman, Price and Briber
Chief Administrative Law Judge Tyrone T. Butler drafted the Determination

For the Department of Health (Petitioner): Jean Bresler, Esq.
For the Respondent: Steven M. Klein, Esq.

After a hearing below, a Board of Professional Medical Conduct committee determined that the Respondent evidenced moral unfitness to practice medicine, that he willfully abused a patient and that he practiced fraudulently. In this proceeding pursuant to N.Y. Pub. Health Law § 230-c (4)(a)(McKinney's Supp. 2000), the Respondent asks the Administrative Review Board to nullify or modify a Determination by a BPMC Committee. The Respondent alleges that the Hearing Committee's Findings of Fact were not supported by the record and that the Committee's Order of Revocation is not appropriate in the case. The Department (Petitioner) argues that the Committee's findings are supported by the record and that the penalty of Revocation is the appropriate sanction.

Committee Determination on the Charges

The Petitioner commenced the proceeding by filing charges with BPMC alleging that the Respondent violated N. Y. Educ. Law §§ 6530 (2), (20), (31) (McKinney Supp. 2000) by committing professional misconduct under the following specifications:

- Engaging in conduct that evidences moral unfitness

- Willfully physically abusing a patient
- Practicing the profession fraudulently

The charges allege that the Respondent inappropriately touched Patient "A", a summer research intern, and Employee "C", an employee of the Youth Opportunity Program both employed at his facility. A hearing ensued before the Committee which rendered the Determination now on review.

The Committee found that: the Respondent failed to meet minimally acceptable standards of medical practice in his conduct towards Patient "A", with whom no doctor/patient relationship had been established; there was no good faith medical purpose for the Respondent to ask Patient "A" to disrobe and allow him to examine her in his private office on a Saturday afternoon in a deserted facility; there was no good faith medical reason for the Respondent to touch Patient "A's" breasts and external genitalia or to insert an ungloved finger in her rectum and that respondent's conduct demonstrated moral unfitness, fraudulent practice and abuse of a patient, by deliberately and knowingly using the guise of a medical examination on Patient "A" for his own sexual gratification. The Committee found that the Respondent met minimally acceptable standards of medical practice in his care of Employee "C". The Committee sustained the charges as they related to Patient "A" and did not sustain the charges as they relate to Employee "C".

In making their findings and conclusions, the Committee found credible the testimony by Patient "A", "M.G." (Patient "A's" friend's mother), Dr. Wolf (the Petitioner's expert) and Employee "C". They found that the Respondent's testimony was not credible.

The Committee voted to revoke the Respondent's License to practice medicine in New York State. The Committee stated that the Respondent's conduct with Patient "A" was egregious and predatory, exhibiting a profound violation of the boundaries of professional conduct. They further noted that: while there was credible testimony that the Respondent is a good physician who performs a valuable service to his patient population; they strongly disapproved of the completely inappropriate timing, place and nature of the "examination" of Patient "A", who was not truly Respondent's patient, and they did not find credible Respondent's explanation that he performed this type of exam not only to assist Patient "A", but also because of his research

interests. The Committee found that the Respondent abused his position as a physician and violated the trust that Patient "A" had in him by virtue of that status to gratify his own sexual desires. Therefore, a severe penalty is indicated to protect the public.

Review History and Issues

The Committee rendered their Determination on August 2, 2000. This proceeding commenced on August 15, 2000, when the ARB received the 's Notice requesting a Review. The record for review contained the Committee's Determination, the hearing record, the Respondent's brief and the Petitioner's response brief. The record closed when the ARB received the response brief on October 5, 2000.

The Respondent contends that the Hearing Committee's Findings of Fact are not supported by the record and that the penalty of revocation is not appropriate in this case. The Respondent raised two issues for review:

- I. The Hearing Committee ignored discrepancies in Patient "A's" testimony.
- II. The Committee split in its vote on appropriate penalty.

Determination

The ARB has considered the record and the parties' briefs. The Review Board votes 5-0 to sustain the Hearing Committee's Determination finding Dr. Patxot guilty of professional misconduct. That Determination is consistent with the Committee's findings and conclusions and is supported by the record in the case and by the testimony which the Hearing Committee found to be credible. The Review Board defers to the judgement of the Hearing Committee in determining which testimony was credible. We further sustain the Committee's Determination that the Respondent was not guilty of professional misconduct in the matter of Employee "C".

ORDER

NOW, with this Determination as our basis, the ARB renders the following **ORDER**:

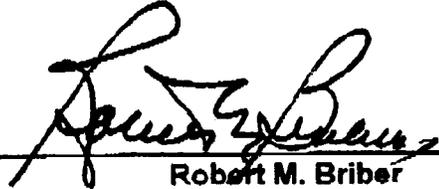
1. The Review Board **sustains** the Hearing Committee on Professional Medical Conduct's August 2, 2000 Determination finding Dr. Omar Patxot guilty of professional misconduct.
2. The Review Board **sustains** the Hearing Committee's Determination revoking Dr. Omar Patxot license to practice medicine in New York State.

Robert M. Briber
Thea Graves Pellman
Winston S. Price, M.D.
Stanley L. Grossman, M.D.
Therese G. Lynch, M.D.

In the Matter of Omar Pabot, M.D.

Robert M. Briber, an ARB Member, concurs in the Determination and Order in the Matter of.

Dated: December 5, 2000



Robert M. Briber

In the Matter of Omar Patxot, M.D.

Thea Graves Pellman, an ARB Member concurs in the Determination and Order in the Matter of.

Dated: Dec 4, 2000



Thea Graves Pellman

In the Matter of Omar Patxot, M.D.

Stanley L. Grossman, an ARB Member concurs in the Determination and Order in the Matter of Mr.

Dated: December 11, 2000

Stanley L. Grossman M.D.

Stanley L Grossman, M.D.

In the Matter of Omar Patrot, M.D.

Therese G. Lynch, M.D., an ARB Member concurs in the Determination and Order in
the Matter of:

Dated: Dec 3, 2009

Therese G. Lynch M.D.

Therese G. Lynch, M.D.

In the Matter of Omar Patxot, M.D.

Winston S. Price, M.D., an ARB Member concurs in the Determination and Order in the
Matter of.

Dated: 12/15, 2000



Winston S. Price, M.D.