



STATE OF NEW YORK DEPARTMENT OF HEALTH

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

January 31, 1995

RECEIVED
JAN 31 1995
MEDICAL CONDUCT DIVISION

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Thaddeus S. Wojcik, M.D.
1513 Four Mile Road
Allegany, New York 14706

Daniel A. DeRose, Esq.
Kehoe & DeRose, Esqs.
P.O. Box 548
419 Community Bank Building
Olean, New York 14760-0548

Jean Bresler, Esq
NYS Dept. of Health
5 Penn Plaza- Sixth Floor
New York, New York 10001

RE: In the Matter of Thaddeus S. Wojcik, M.D.

Effective Date: 02/07/95

Dear Dr. Wojcik, Mr. DeRose and Ms. Bresler :

Enclosed please find the Determination and Order (No. 94-183) 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.

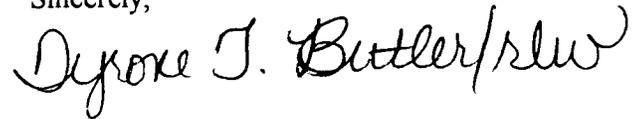
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified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

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:

Enclosure

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

**IN THE MATTER

OF

THADDEUS WOJCIK, M.D.**

**ADMINISTRATIVE
REVIEW BOARD
DECISION AND
ORDER NUMBER
BPMC 94-183**

The Administrative Review Board for Professional Medical Conduct (hereinafter the "Review Board"), consisting of **ROBERT M. BRIBER, SUMNER SHAPIRO, WINSTON S. PRICE, M.D., EDWARD C. SINNOTT, M.D.**¹ and **WILLIAM A. STEWART, M.D.** held deliberations on November 18, 1994 to review the Hearing Committee on Professional Medical Conduct's (Hearing Committee) September 12, 1994 Determination finding Dr. Thaddeus Wojcik (Respondent) guilty of professional misconduct. Both the Office of Professional Medical Misconduct (Petitioner) and the Respondent requested the Review through Notices which the Board received on September 26, 1994 and September 29, 1994. James F. Horan served as Administrative Officer to the Review Board. Daniel D. DeRose, Esq. filed a brief for the Respondent which the Board received on November 4, 1994 and additional comments which the Board received on November 14, 1994. Jean Bresler, Esq. submitted a brief for the Petitioner on October 31, 1994 and a reply brief which the Board received on November 8, 1994.

¹Dr. Sinnott participated in the deliberations by telephone conference.

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 Petitioner brought this case pursuant to Public Health Law Section 230(10)(p) and Education Law Section 6530(9)(a)(i), which provide an expedited hearing in cases in which professional misconduct charges against a Respondent are based upon a prior criminal conviction in New York or another jurisdiction or upon a prior administrative adjudication which would amount to misconduct if committed in New York State. The expedited hearing determines the nature and severity of the penalty which the Hearing Committee will impose based upon the criminal conviction or prior administrative adjudication.

The Hearing Committee in this case found that the Petitioner had met its burden of proof in establishing that the Respondent was guilty of misconduct based upon his conviction for an act which constitutes a crime under the laws of the State of New York. The Committee found that the Respondent had been convicted upon a guilty plea to resisting arrest, a misdemeanor, and operating a motor vehicle under the influence of alcohol, a violation. The Town of Coldspring Justice Court

sentenced the Respondent, in July, 1994, to pay a One Hundred (\$100.00) dollar fine and suspended the Respondent's driver's license for ninety days.

The Hearing Committee voted to suspend the Respondent's license to practice medicine in New York for two years, stayed the suspension in its entirety and placed the Respondent on probation for two years, under terms which the Committee set out in Appendix II in their Determination and Order. The terms include a requirement that the Respondent undergo an independent assessment for alcohol abuse or impairment, and terms require that he enter a rehabilitation program if the evaluation indicates continuing impairment or abuse.

The Committee discussed the evidence from the hearing in explaining how they reached the Penalty. The Committee noted that a Certified Addiction Counselor had provided an affidavit for Dr. Wojcik. The affidavit stated that an assessment of Dr. Wojcik resulted in a diagnoses of alcohol abuse, mild, but not dependence. The affidavit stated that the stress and use of alcohol on the Respondent's part had declined markedly after the Respondent's troubled marriage dissolved. A letter from the Medical Director at the Hospital, at which the Respondent practiced, mentioned that there had been an accusation against the Respondent concerning alcohol use, but the Hospital had determined that the Respondent had not been on call at the time and had not been impaired at the time he had seen a patient on an emergency basis.

The Hearing Committee still felt a concern about the Respondent's current use of alcohol. The Committee concluded that the Counselor's affidavit did not resolve the question of whether alcohol abuse or misuse was still a factor in the Respondent's life. The Committee was concerned because the Respondent had ended counselling sessions by his own decision and because the Committee felt that the Respondent's answers concerning drinking "while on call" were glib and lacking insight about the seriousness of the situation. The Committee concluded that those questions coupled with the Respondent's conviction for a crime of violence warranted the need for an expert and objective opinion concerning ongoing impairment or abuse to resolve the Hearing Committee's concerns.

REQUESTS FOR REVIEW

The Respondent has asked that the Review Board overrule the Hearing Committee's Determination and order a new hearing on the issue of whether the Respondent's ability to practice medicine is impaired by the Respondent's misuse of alcohol.

The Respondent argues that the Respondent's criminal conviction was for resisting arrest and the driving while impaired charge was a traffic infraction not a crime. The Respondent argues that he did not have notice that the issues of the hearing would be the Respondent's use of alcohol. The Respondent's counsel states that the Respondent was left to guess what the Hearing Committee was looking for and was constrained to respond to the question of alcohol misuse.

The Respondent argues further that the Committee's Determination to suspend the Respondent's license was excessively harsh and that, even though stayed, the suspension will remain with the Respondent for his entire career.

The Petitioner has requested that the Hearing Committee modify the terms of the Respondent's probation. The Petitioner contends that the Hearing Committee's Penalty does not provide adequate monitoring of the Respondent should the Respondent's Evaluation indicate that the Respondent remains in need of monitoring and/or supervision. The Petitioner recommends additional terms of probation.

The Petitioner opposes the Respondent's request for a new hearing in this case, contending that the Respondent's conviction for drinking while impaired was properly before the Hearing Committee and that alcohol use was a legitimate concern in determining a 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 finding the Respondent guilty of Professional Misconduct following his guilty plea to a misdemeanor count of

resisting arrest.

The Review Board votes to sustain the Hearing Committee's Determination to suspend the Respondent's license , stay the suspension in its entirety, and in lieu of the suspension, to place the Respondent on probation for two years. The Review Board sustains the Hearing Committee's terms of probation in full and we deny the Petitioner's request to impose additional probation terms. If the Respondent's Evaluation indicates that the Respondent needs additional supervision or monitoring, the Hearing Committee's Probation Term No. 8, would refer the Respondent to a designated rehabilitation center. Such a center would provide adequate supervision for the Respondent.

The Review Board denies the Respondent's request for a hearing de novo. The Respondent was aware that alcohol was an issue in the hearing and had an adequate opportunity to address that issue in the hearing. The Review Board believes that the fact that the Respondent's offense was alcohol related was properly before the Hearing Committee.

The Respondent was convicted of a misdemeanor which the Hearing Committee characterized as an act of violence. The Committee had the obligation to inquire about the circumstances of the Respondent's crime in determining their Penalty. Any time a Hearing Committee is aware that a Respondent has committed a crime involving violence or unruly behavior, the Committee is correct to inquire whether the behavior may be connected to an alcohol or substance abuse problem or to some mental impairment. If the Committee determines that there is a connection to alcohol abuse, they can seek further information to assure that the alcohol abuse is not an ongoing problem.

From the testimony and other evidence the Committee could not be sure that alcohol does not pose an ongoing problem for the Respondent. The Committee's terms of probation send the Respondent for an Evaluation to assure that the Respondent's problem with alcohol has indeed ceased. The Review Board finds that the Committee's Penalty is totally appropriate.

ORDER

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

1. The Review Board **sustains** the Hearing Committee on Professional Medical Conduct's September 12, 1994 Determination finding Dr. Thaddeus Wojcik guilty of professional misconduct.

2. The Review Board **sustains** the Hearing Committee's Determination to stay the suspension of the Respondent's license, and in lieu of suspension, to place the Respondent on probation for two years under the terms set out in Appendix II of the Hearing Committee's Determination.

ROBERT M. BRIBER

SUMNER SHAPIRO

WINSTON S. PRICE, M.D.

EDWARD SINNOTT, M.D.

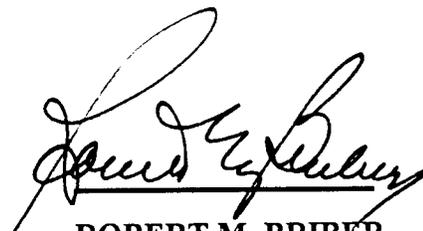
WILLIAM A. STEWART, M.D.

IN THE MATTER OF THADDEUS WOJCIK, 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. Wojcik.

DATED: Albany, New York

12/16, 1994



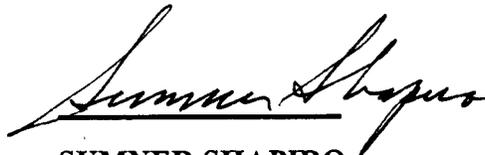
ROBERT M. BRIBER

IN THE MATTER OF THADDEUS WOJCIK, M.D.

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

DATED: Delmar, New York

Dec. 28, 1994

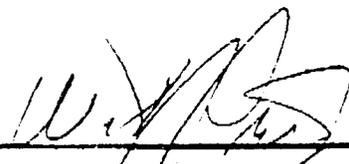

SUMNER SHAPIRO

IN THE MATTER OF THADDEUS WOJCIK, M.D.

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. Wojcik

DATED: Brooklyn, New York

_____, 1994



WINSTON S. PRICE, M.D.

IN THE MATTER OF THADDEUS WOJCIK, 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. Wojcik.

DATED: Roslyn, New York

December 16, 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 THADDEUS WOJCIK, 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. Wojcik.

DATED: Syracuse, New York

16 Dec., 1994

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

WILLIAM A. STEWART, M.D.