



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

January 22, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Jagadeep Parikh, M.D.
42 Trafalgar Drive
Plattsburg, New York 12901-1341

Robert H. Iseman, Esq.
Iseman, Cunningham, Riester & Hyde
9 Thurlow Terrace
Albany, New York 12203

Kevin C. Roe, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower - Room 2436
Empire State Plaza
Albany, New York 12237-0030

RE: In the Matter of Jagadeep Parikh, M.D.

Dear Dr. Parikh, Mr. Iseman and Mr. Roe:

Enclosed please find the Determination and Order (No. ARB-92-93) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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

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IN THE MATTER : ADMINISTRATIVE
OF : REVIEW BOARD
JAGADEEP PARIKH, M.D. : DETERMINATION
: AND ORDER
: ORDER NO. ARB-92-93

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A quorum of the Administrative Review Board for Professional Medical Conduct (Review Board), consisting of **ROBERT M. BRIBER, MARYCLAIRE B. SHERWIN, EDWARD C. SINNOTT, M.D.** and **WILLIAM A. STEWART, M.D.**¹ held deliberations on December 17, 1992 to review the Professional Medical Conduct Hearing Committee's (Hearing Committee) October 27, 1992 Determination finding Jagadeep Parikh, M.D. guilty of professional misconduct and placing Dr. Parikh on not less than five years probation. The Office of Professional Medical Conduct (OPMC) requested the Review through a Notice of Review which the Board received on November 3, 1992. **JAMES F. HORAN, ESQ.** served as Administrative Officer to the Review Board. Kevin C. Roe, Esq. submitted a brief on behalf of the Department of Health on November 27, 1992 and Robert H. Iseman, Esq. submitted a brief on behalf of Dr. Parikh on December 4, 1992.

¹ 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) Section 230(10)(i), Section 230-c(1) and Section 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 Section 230-a.

PHL Section 230-c(4)(b) permits the Review Board to remand a case to the Hearing Committee for further consideration.

PHL Section 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 Dr. Parikh with moral unfitness in the practice of medicine, for engaging in physical conduct for the sake of his own sexual pleasure with four patients, and with four counts of willfully abusing a patient. The four patients involved in the charges are referred to in the record as Patients A through D.

The Hearing Committee found the Respondent guilty of moral unfitness in the practice of medicine and of willfully abusing Patients A through D. The Committee found that Dr. Parikh suffered from a condition classified as frotteurism and that

during therapy for that condition, the Respondent had admitted abusing thirty to fifty patients. The Committee found further that the Respondent had twice been an in-patient at Golden Valley Health Center, a nationally recognized center for psycho-sexual disorders, and that the Respondent's attending physician at the Center had recommended that the Respondent could return to practicing medicine under certain conditions, including continued therapy and the presence of a chaperon when the Respondent's female patients disrobe. The Hearing Committee accepted in their Findings of Fact an assessment of the Respondent's ability to continue in practice from an assessment team from the Golden Valley Health Center (Finding of Fact 24).

As a penalty, the Hearing Committee voted to revoke the Respondent's license to practice medicine, but stayed the revocation in recognition of the Respondent's ongoing rehabilitation and contrition, and based on the conclusions of the Golden Valley Health Care Center. The Hearing Committee placed Dr. Parikh on probation for no less than five years and imposed conditions of probation that appear at Pages 14-16 of the Committee's Determination and Order. The conditions of probation include continued therapy, monitoring and record review.

THE REQUEST FOR REVIEW

The Department of Health has asked the Review Board to overturn the Hearing Committee's penalty because the penalty is not appropriate and consistent with the Respondent's misconduct.

Based upon the serious and repetitive nature of the Respondent's conduct, the Department has urged that the Respondent's license to practice be revoked.

THE REVIEW BOARD'S DETERMINATION

The Review Board has considered the entire record from this hearing as well as the submissions by both parties.

The Review Board votes unanimously to sustain the Hearing Committee's Determination that the Respondent was guilty of moral unfitness in the practice of medicine and of willfully abusing four patients. The Respondent did not contest the charges that he had abused the four patients sexually and the Hearing Committee found that, during therapy, the Respondent had admitted to abusing thirty to fifty patients. (Finding of Fact #9)

The Review Board votes unanimously to sustain the Hearing Committee's determination to revoke Dr. Parikh's license, but vote unanimously to overturn the Committee's determination to stay the revocation and impose probation in its place.

Revocation is the only appropriate penalty for a physician who sexually abuses a patient. In this case, the Department offered evidence that the Respondent had sexually abused four patients and the Respondent admitted during therapy that he had molested thirty to fifty patients in all. We disagree with the Hearing Committee's Determination that probation and monitoring is a sufficient penalty for the Respondent's repeated acts of abuse, regardless of whether or not the Respondent is

contrite and is undergoing therapy. We stated previously in the Matter of Rudell (Order No. BPMC-92-40-A) that there is no mitigation in cases in which a physician sexually abuses a patient.

We also disagree with the Hearing Committee that the probation and monitoring penalty which the Hearing Committee imposed is a sufficient measure to protect the health of the public. The Respondent suffers from a condition which is incurable. The experts who testified on the Respondent's behalf acknowledged that there was a risk that the Respondent could return to abusive behavior. The Respondent returned to Golden Valley Health Center in April 1992 because he was fantasizing about some women, and the Center warned him he must stop the fantasizing. The experts testifying on the Respondent's behalf felt that the Respondent could not be allowed to practice on female patients unless he has a chaperon present. These factors lead us to conclude that Dr. Parikh's continued practice of medicine presents an unacceptable risk to the public.

ORDER

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

1. The Hearing Committee's Determination that the Respondent was guilty of moral unfitness in the practice of medicine and willfully abusing four patients is **SUSTAINED**.

2. The Hearing Committee's determination staying the revocation of Dr. Jagadeep Parikh's license to practice medicine is overturned and the Respondent's license to practice medicine in the State of New York is **REVOKED**.

ROBERT M. BRIBER

MARYCLAIRE B. SHERWIN

EDWARD C. SINNOTT, M.D.

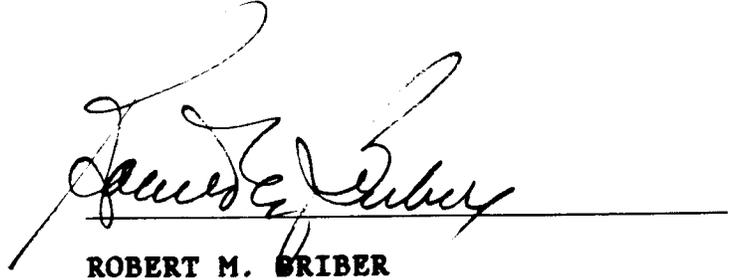
WILLIAM A. STEWART, M.D.

IN THE MATTER OF JAGADEEP PARIKH, 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. Parikh.

DATED: Albany, New York

January 8, 1993



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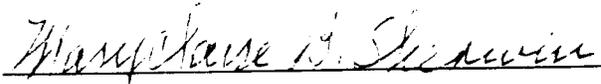
ROBERT M. BRIBER

IN THE MATTER OF JAGADEEP PARIKH 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. Parikh.

DATED: Malone, New York

January 7, 1993

A handwritten signature in cursive script, reading "Maryclaire B. Sherwin", written over a horizontal line.

MARYCLAIRE B. SHERWIN

IN THE MATTER OF JAGADEEP PARIKH, 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. Parikh.

DATED: Roslyn, New York

January 18, 1993

A handwritten signature in cursive script, reading "Edward C. Sinnott", written over a horizontal line. The signature is positioned to the right of the typed name.

EDWARD C. SINNOTT, M.D.

IN THE MATTER OF JAGADEEP PARIKH, 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. Parikh.

DATED: Syracuse, New York

January 7, 1993

William A. Stewart

WILLIAM A. STEWART, M.D.