



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

May 11, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Jeffrey Wiersum, M.D.
713 East Genesee Street
Suite 311
Syracuse, New York 13210

Peter D. Van Buren, Esq.
NYS Department of Health
Division of Legal Affairs
ESP-Corning Tower, Rm. 2438
Albany, New York 12237

Ronald J. Pelligra, Esq.
205 South Townsend Street
Syracuse, New York 13202

RE: In the Matter of Jeffrey Wiersum, M.D.

Dear Dr. Wiersum, Mr. Pelligra, and Mr. Van Buren:

Enclosed please find the Determination and Order (No.93-207) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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" with a small mark at the end.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:

Enclosure

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

**IN THE MATTER
OF
JEFFREY WIERSUM, M.D.**

**ADMINISTRATIVE
REVIEW BOARD
DETERMINATION
AND ORDER
NO. BPMC 93-207**

The Administrative Review Board for Professional Medical Conduct (hereinafter the "Review Board"), consisting of **ROBERT M. BRIBER, MARYCLAIRE B. SHERWIN, WINSTON S. PRICE, M.D., EDWARD C. SINNOTT, M.D.** and **WILLIAM A. STEWART M.D.** held deliberations on March 4, 1994¹ to review the Professional Medical Conduct Hearing Committee's December 27, 1993 Determination finding Dr. Jeffrey Wiersum (Respondent) guilty of professional misconduct. The Respondent requested the review through a Notice which the Review Board received on January 13, 1994. Ronald J. Pelligra, Esq. submitted a brief on the Respondent's behalf on January 31, 1994. Peter D. Van Buren, Esq. submitted a reply brief on behalf of the Office of Professional Medical Conduct (Petitioner) on February 7, 1994.

¹ Drs. Sinnott, Stewart, and Price participated in the Deliberations by telephone.

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 majority concurrence of the Review Board.

HEARING COMMITTEE DETERMINATION

The Petitioner charged the Respondent with negligence on more than one occasion, incompetence on more than one occasion, gross negligence and gross incompetence, failing to maintain adequate records, violating Article 33 of the Public Health Law and violating the terms of a previous probation. The charges involving negligence, incompetence and records arose from the Respondent's treatment of fifteen persons, Patients A through O.

The Hearing Committee sustained the charges that the Respondent was guilty of incompetence on more than one occasion and negligence on more than one occasion in the treatment of Patients A through O. The Hearing Committee determined that the Respondent was guilty of gross negligence in the treatment of every Patient, A through O, and that the Respondent was guilty of gross incompetence in the treatment of every Patient, A through O. The Hearing Committee also determined that the Respondent failed to maintain adequate records

for Patients A through O.

As to the charges involving violations of Public Health Law Article 33, the Committee found that the Respondent had entered a stipulation with the Department of Health in July, 1992 in which he admitted that he had issued prescriptions for controlled substances in large amounts to two patients, with knowledge that the patients were habitual overusers of the controlled substances prescribed.

The Committee also found that the New York State Board of Regents placed the Respondent on probation in March, 1987 based on a finding at the time that the Respondent had violated Public Health Law Article 33. The 1989 Regents action involved separate violations than those involved in the 1991 stipulation. The terms of probation included a requirement that the Respondent comply with the legal requirements for prescribing controlled substances. The Committee found that the Respondent was in violation of that probation based on the Respondent's prescription of controlled substances to Patients A through O and based upon the Respondent's 1991 stipulation admitting to controlled substances violations.

The Hearing Committee concluded that Respondent had a penchant for overprescribing controlled substances and that the Respondent also failed to verify through standard medical methods his diagnoses and treatments. The Committee found that the evidence demonstrated the Respondent's lack of knowledge in medicine. The Committee found that the Respondent should have updated his medical knowledge following the prior action against him by the Board of Regents, but that the Respondent had failed to do so. The Hearing Committee could find no justification to impose any penalty in this case less severe than revocation. The Committee voted to revoke Dr. Wiersum's license to practice medicine in New York State.

REQUESTS FOR REVIEW

In his brief, the Respondent challenged the make up of the Hearing Committee, alleged that witnesses had failed to testify for him due to fear of the Petitioner, alleged that some witnesses on his behalf were unavailable to testify, and objected to the exclusion of other witnesses. The Respondent also objected to the testimony by the Petitioner's medical experts, who called the Respondent's medical skills substandard. The Respondent asked the Board to impose a penalty less severe than revocation. The Respondent stated in his brief, that if he is allowed to return to practice he would probably write fewer prescriptions.

The Petitioner's reply brief contends that the respondent's brief requests relief from the Board which is beyond the Board's scope of Review. The Petitioner asks that the Review Board uphold the Hearing Committee's determination.

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 repeated acts of negligence and incompetence, repeated acts of gross negligence and gross incompetence and repeated failure to maintain adequate records. The Hearing Committee's conclusions on those charges are consistent with the Committee's extensive findings concerning the respondent's excessive prescribing of controlled substances and his provision of substandard medical care. The Board finds further that the Hearing Committee's findings support their conclusion that the respondent was guilty of violation of the controlled substances Article of the Public Health Law and was guilty of violating the probation penalty which the Board of Regents imposed upon the Respondent's medical license in 1987.

The Review Board votes to sustain the Hearing Committee's Determination revoking the Respondent's license to practice medicine in New York State. The penalty is consistent with the Hearing Committee's extensive findings concerning the Respondent's numerous and egregious acts of negligence and incompetence and the penalty is appropriate in view of the danger which the respondent poses to his patients due to his provision of substandard medical care and his overprescribing of controlled substances.

ORDER

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

ORDER:

1. The Hearing Committee on Professional Medical Conduct's December 27, 1993 Determination finding Jeffrey Wiersum, M.D. guilty of professional misconduct is sustained.
2. The Hearing Committee Determination to revoke Dr. Wiersum's license to practice medicine in New York State is sustained.

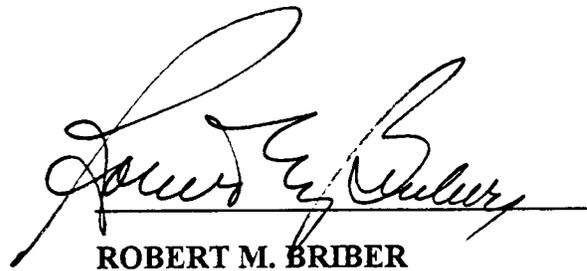
**ROBERT M. BRIBER
MARYCLAIRE B. SHERWIN
WINSTON S. PRICE, M.D.
EDWARD C. SINNOTT, M.D.
WILLIAM A. STEWART, M.D.**

IN THE MATTER OF JEFFREY WIERSUM, 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. Weirsum.

DATED: Albany, New York

May 2, 1994



ROBERT M. BRIBER

IN THE MATTER OF JEFFREY WIERSUM, M.D.

WINSTON S. PRICE, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Wiersum.

DATED: Brooklyn, New York
_____, 1994


WINSTON S. PRICE

IN THE MATTER OF JEFFREY WIERSUM, 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. Wiersum.

DATED: Malone, New York

May 5, 1994

Maryclaire B. Sherwin
MARYCLAIRE B. SHERWIN

IN THE MATTER OF JEFFREY WIERSUM, M.D.

EDWARD C. SINNOTT, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Wiersum.

DATED: Roslyn, New York
May 4, 1994


EDWARD C. SINNOTT, M.D.

IN THE MATTER OF JEFFREY WIERSUM, M.D.

WILLIAM A. STEWART, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Wiersum.

DATED: Syracuse, New York
2/4ay, 1994


WILLIAM A. STEWART