



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

January 24, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Abraham I. Sokol, M.D.
Marcy Correctional Facility
Marcy, New York 13403

Denise Lepicier, Esq.
NYS Department of Health
Bureau of Adjudication
5 Penn Plaza - Sixth Floor
New York, New York 10001

EFFECTIVE DATE 01/31/94

RE: In the Matter of Abraham Sokol, M.D.

Dear Dr. Sokol and Ms. Lepicier:

Enclosed please find the Determination and Order (No. 93-154) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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, Director
Bureau of Adjudication

TTB/lar
Enclosure

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

-----X
IN THE MATTER

OF

ABRAHAM SOKOL, M.D.
-----X

: ADMINISTRATIVE
REVIEW BOARD
: ~~REDACTED~~
: ORDER NO. 93-164

The Administrative Review Board for Professional Medical Conduct (hereinafter the "REVIEW BOARD"), consisting of Robert M. Briber, Winston S. Price, M.D., Maryclaire B. Sherwin, Edward C. Sinnott, M.D. and William B. Stewart, M.D. held deliberations by telephone conference on December 21, 1993 to review the Professional Medical Conduct Hearing Committee's (hereinafter the "HEARING COMMITTEE") October 20, 1993 Determination finding Dr. Abraham Sokol guilty of professional misconduct and revoking his license to practice medicine in the State of New York. Dr. Sokol requested the review through a Notice of Review which the Board received on November 2, 1993. James F. Horan served as Administrative Officer to the Review Board. The Respondent Dr. Sokol submitted a brief on his own behalf on November 29, 1993. Denise Lepicier, Esq. filed a reply to the Respondent's brief for the Office of Professional Medical Conduct (Petitioner) on December 6, 1993.

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 Sec. 230-a.

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

PHL Sec. 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 proceeding against Dr. Sokol pursuant to Public Health Law Section 230(10)(p) and Education Law Section 6530(9), which provide an expedited hearing in cases in which professional misconduct charges against a physician 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. 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 matter found that the Petitioner had met its burden of proof in establishing that the Respondent was convicted following a jury trial, in the New York State Supreme Court for Westchester County for Grand Larceny in the Second Degree for defrauding the Medicaid Program. The Committee found that Court sentenced the Respondent to serve from three and one-half to ten and one-half years in prison and pay Two Hundred Twenty-Two Thousand Two Hundred Fifty-Five (\$222,255.00) Dollars in restitution. The Committee found that the Respondent was guilty of misconduct for having been convicted of a crime in New York State. The Hearing Committee found that the Respondent's criminal conviction constituted professional misconduct.

The Hearing Committee voted to revoke the Respondent's license to practice medicine in the State of New York. The Committee determined that the Respondent's crime was related to the practice of medicine and that the Respondent used his medical license to commit the reprehensible crime of Medicaid fraud. The Committee found the Respondent's criminal conduct to be a serious violation of the public trust conferred upon a physician.

THE REQUEST FOR REVIEW

The Respondent's brief argues that the Respondent was innocent of the charges in the underlying criminal case and the Respondent's brief alleges deficiencies in the criminal proceeding. The Respondent also raises three issues about the proceedings before the Hearing Committee: 1) that the Hearing

Committee should have been composed of five members rather than three, 2) that the Respondent was entitled to assigned counsel before the Hearing Committee, and, 3) that the Respondent was entitled to a one year delay in the commencement of the hearing so that he could appear at the hearing personally. The Respondent also contends that the Hearing Committee's penalty is too severe.

The Petitioner urges the Review Board to sustain the Hearing Committee's Determination. The Petitioner contends that any argument concerning the Respondent's guilt on the underlying criminal charge or any allegations concerning the procedures at the Respondent's criminal trial are beyond the Review Board's scope of review. The Petitioner asserts that the proceedings before the Hearing Committee were proper and the Hearing Committee's penalty is appropriate.

THE REVIEW BOARD DETERMINATION

The Review Board has considered the entire record below and the briefs which counsel have submitted.

The Review Board finds that any challenge to the Respondent's underlying criminal conviction or to the procedures followed at the Respondent's trial are beyond the scope of the Board's review.

The Review Board votes to sustain the Hearing Committee's Determination that the Respondent was guilty of professional misconduct based upon his conviction for grand larceny for defrauding the Medicaid Program. The Determination was consistent

with the Hearing Committee's findings and conclusions.

The Review Board votes to sustain the Hearing Committee's Determination to revoke the Respondent's license to practice medicine in New York State. The Determination is consistent with the Hearing Committee's findings and conclusions that the Respondent's criminal conduct was related to the practice of medicine and that the Respondent used his medical license to commit Medicaid fraud. The revocation is an appropriate penalty considering the extent and the serious nature of the Respondent's criminal conduct.

The Respondent had alleged three procedural defects in the hearing: 1) that there were not five members of the Hearing Committee, 2) that there was no assigned counsel, and, 3) that the Respondent did not receive a one year adjournment in the hearing. The Review Board finds no merit in the Respondent's objections to the conduct of the hearing. The procedure for the hearing is set out in Public Health Law Section 230(10)(p). That statute provides for three member hearing committees and has no provision for or requirement for assigned counsel. Further, the Hearing Committee did not abuse their discretion by refusing to allow the Respondent a one year delay in the date of the hearing.

ORDER

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

1. The Determination of the Hearing Committee on Professional Medical Conduct finding Dr. Abraham Sokol guilty of professional misconduct is sustained.

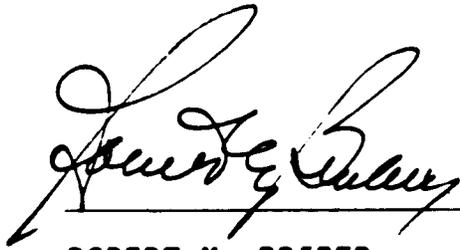
2. The Determination of the Hearing Committee to revoke the Respondent's license to practice medicine in the State of New York is sustained.

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

IN THE MATTER OF ABRAHAM SOKOL, 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. Sokol.

January 11, 1994
DATED: Albany, New York



ROBERT M. BRIBER

IN THE MATTER OF ABRAHAM SOKOL, 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. Sokol.

DATED: Brooklyn, New York

A handwritten signature in black ink, appearing to read 'W. S. Price M.D.', written over a horizontal line.

WINSTON S. PRICE, M.D.

IN THE MATTER OF ABRAHAM SOKOL, 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. Sokol.

DATED: Malone, New York

Maryclaire B. Sherwin
MARYCLAIRE B. SHERWIN

IN THE MATTER OF ABRAHAM SOKOL, 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. Sokol.

DATED: Roslyn, New York

January 2, 1944

A handwritten signature in cursive script, appearing to read "Edward C. Sinnott", written over a horizontal line.

EDWARD C. SINNOTT, M.D.

IN THE MATTER OF ABRAHAM SOKOL, M.D.

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

DATED: Syracuse, New York

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

WILLIAM A. STEWART, M.D.



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

October 20, 1993

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Abraham I. Sokol, M.D.
Marcy Correctional Facility
Marcy, New York 13403

Denise Lepicier, Esq.
Assistant Counsel
New York State Department of Health
Bureau of Adjudication
5 Penn Plaza - Sixth Floor
New York, New York 10001-1810

RE: In the Matter of Abraham I. Sokol, M.D.

Dear Dr. Sokol and Ms. Lepicier:

Enclosed please find the Determination and Order (No. BPMC-93-164) of the Hearing Committee 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:

New York State Department of Health
Office of Professional Medical Conduct
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.

As prescribed by the New York State Public Health Law, §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "(t)he determination of a committee on professional medical conduct may be reviewed by the administrative review board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays all action until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by **certified mail**, upon the Administrative Review Board **and** the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

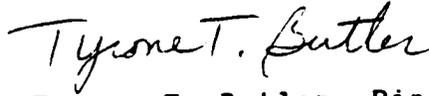
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Corning Tower -Room 2503
Empire State Plaza
Albany, New York 12237-0030

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the
Administrative Review Board's Determination and Order.

Very truly yours,

A handwritten signature in cursive script that reads "Tyrone T. Butler".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:rg
Enclosure

STATE OF NEW YORK ; DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

-----X
IN THE MATTER
OF
ABRAHAM I. SOKOL, M.D.

; HEARING COMMITTEE'S
; FINDINGS OF FACT,
; CONCLUSIONS,
; DETERMINATION
; AND ORDER

; No. BPMC -93-164
-----X

A Notice of Referral Proceeding and Statement of Charges, both dated June 30, 1993, were served upon Respondent, ABRAHAM I. SOKOL, M.D. GEORGE HYAMS, M.D. (Chair), F. MICHAEL JACOBIOUS, M.D., and KENNETH KOWALD, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. GERALD H. LIEPSHUTZ, Department of Health Hearing Officer, served as the Administrative Officer. A hearing was held on August 11, 1993. The Department of Health appeared by Denise Lepicier, Esq., Assistant Counsel. Respondent did not appear at the hearing either personally or by representative, but he submitted a document for the record. Evidence was received and a transcript of this proceeding was made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). That statute provides for an expedited hearing where a licensee is charged solely with a violation of Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication or upon having had other disciplinary action taken concerning a license to practice medicine regarding conduct which would amount to professional misconduct if committed in New York. The scope of this expedited hearing is limited by Public Health Law Section 230(10)(p) to a determination of the nature and severity of the penalty to be imposed upon the licensee. In the instant case, Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(a)(i) in that he was convicted of a crime in the State of New York.

FINDINGS OF FACT

The following Findings of Fact were made unanimously (3-0) after a review of the entire record in this matter. Citations in parentheses refer to exhibits in evidence. These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting

evidence was considered and rejected in favor of the cited evidence.

1. Respondent was authorized to practice medicine in New York State on October 28, 1975 by the issuance of license number 125783 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine. (Ex. 2)

2. On or about April 10, 1991, Respondent was charged in indictment number 620/91 in the County of Westchester with one count of Grand Larceny in the First Degree in violation of New York Penal Law Section 155.42 (McKinney 1988), and 32 counts of Offering a False Instrument for Filing in the First Degree in violation of New York Penal Law Section 175.35 (McKinney 1988). On or about July 9, 1992, Respondent was convicted, after a jury trial, of the lesser included offense of Grand Larceny in the Second Degree in violation of New York Penal Law Section 155.40 (McKinney 1988). On or about August 14, 1992, Respondent was sentenced to serve a mandatory minimum term of three and one half years to a maximum period of ten and one half years. Respondent was also ordered to pay \$222,255.00 in restitution plus a 5% surcharge thereon. (Exs. 3 through 6)

CONCLUSIONS

The following Conclusions were made pursuant to the Findings of Fact herein. All Conclusions resulted from a unanimous (3-0) vote of the Hearing Committee.

The Committee concludes that the Department of Health has met its burden of proof. The preponderance of the evidence demonstrates that on or about July 9, 1992, Respondent was convicted of the crime of Grand Larceny in the Second Degree in violation of New York Penal Law Section 155.40. The Committee also concludes that Respondent committed professional misconduct within the meaning of New York State Education Law Section 6530(9)(a)(i) by virtue of this criminal conviction. (Finding of Fact 2)

DETERMINATION AND ORDER

The **SPECIFICATION** in the Statement of Charges is sustained.

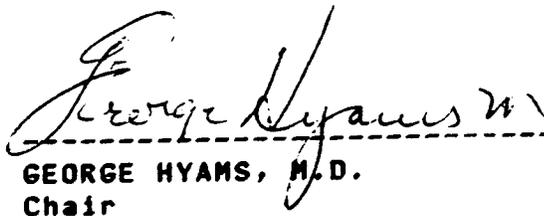
The evidence demonstrated that Respondent's crime was related to the practice of medicine in that he used his medical license to commit the reprehensible act of Medicaid fraud. Although it is legally unnecessary to show a relationship between the crime and the practice of medicine in order to sustain

this charge of medical misconduct, it evidences a serious violation of the public trust conferred upon a physician.

IT IS HEREBY ORDERED:

THAT pursuant to Section 230-a(4) of the Public Health Law of the State of New York, Respondent's license to practice medicine in New York State is revoked.

**DATED: New York, New York
October , 1993**



GEORGE HYAMS, M.D.
Chair

F. MICHAEL JACOBIOUS, M.D.
KENNETH KOWALD

TO: ABRAHAM I. SOKOL, M.D.
Marcy Correctional Facility
Marcy, New York 13403

DENISE LEPICIER, ESQ.
ASSISTANT COUNSEL
New York State Department of Health
Bureau of Adjudication
5 Penn Plaza - Sixth Floor
New York, New York 10001-1810

APPENDIX I

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

-----X
: IN THE MATTER : NOTICE OF
: OF : REFERRAL
: ABRAHAM I. SOKOL, M.D. : PROCEEDING
: :
-----X

TO: ABRAHAM I. SOKOL, M.D.
Marcy Correctional Facility
Marcy, N.Y. 13403

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) (McKinney Supp. 1993) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1993). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 11th day of August at 11:00 o'clock in the forenoon of that day at 5 Penn Plaza, 6th Floor, New York, New York 10001.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, ATTENTION: NANCY MASSARONI, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before July 30, 1993.

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before July 30, 1993 and a copy of all papers must be served on the same date on the Department of

Health attorney indicated below. Pursuant to Section 301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED.

YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT
YOU IN THIS MATTER.

DATED: New York, New York
June 30, 1993



CHRIS STERN HYMAN
Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Denise Lepicier
Assistant Counsel
(212) 613-2617

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

-----X
IN THE MATTER : STATEMENT
OF : OF
ABRAHAM I. SOKOL, M.D. : CHARGES
-----X

ABRAHAM I. SOKOL, M.D., the Respondent, was authorized to practice medicine in New York State on October 28, 1975 by the issuance of license number 125783 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine.

FACTUAL ALLEGATIONS

- A. On or about April 10, 1991, the Respondent was charged in indictment number 620/91 in the County of Westchester with one count of Grand Larceny in the First Degree in violation of N.Y. Penal Law Section 155.42 (McKinney 1988), and 32 counts of Offering a False Instrument for Filing in the First Degree in violation of N.Y. Penal Law Section 175.35 (McKinney 1988). On or about July, 9, 1992, the Respondent was convicted, after a jury trial, of the lesser included offense of Grand Larceny in the Second Degree in violation of

N.Y. Penal Law Section 155.40 (McKinney 1988). On or about August 14, 1992, the Respondent was sentenced to serve a mandatory minimum term of three and one half years to a maximum period of ten and one half years. The Respondent was also ordered to pay \$222,255.00 in restitution plus a 5% surcharge thereon.

SPECIFICATION

Respondent is charged with professional misconduct, within the meaning of N.Y. Education Law Section 6530 (9)(a)(i) (McKinney Supp. 1993), in that he was convicted of one count of criminal activity in the State of New York as alleged in paragraph A.

DATED: New York, New York

June 30, 1993



CHRIS STERN HYMAN
Counsel
Bureau of Professional Medical
Conduct