



STATE OF NEW YORK DEPARTMENT OF HEALTH

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

January 30, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Henry V. Chace, D.O.
87-24 Jamaica Avenue
Woodhaven, New York 10001

Denise Lepicier, Esq
NYS Dept. of Health
Bureau of Professional Medical Conduct
5 Penn Plaza - Sixth Floor
New York, New York 10001

RECEIVED
JAN 31 1995
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

RE: In the Matter of Henry V. Chace, D.O.

Effective Date: 2/06/95

Dear Dr. Chace and Ms. Lepicier:

Enclosed please find the Determination and Order (No. 94-204) 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.

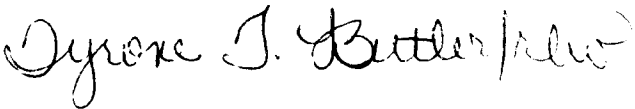
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified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

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

HENRY V. CHACE, D.O.**

**ADMINISTRATIVE
REVIEW BOARD
DECISION AND
ORDER NUMBER
ARB NO. 94-204**

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 28, 1994 Determination finding Dr. Henry Chace (Respondent) guilty of professional misconduct. The Office of Professional Medical Conduct (Petitioner) requested the Review through a Notice which the Board received on October 7, 1994. James F. Horan served as Administrative Officer to the Review Board. Denise Lepicier, Esq. filed a brief for the Petitioner, which the Review Board received on November 7, 1994. The Respondent did not file a brief and did not file a reply to the Petitioner's brief.

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:

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

- 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 charged the Respondent with practicing medicine with negligence on more than one occasion, failing to maintain adequate records, and practicing the profession fraudulently. The charges involve the Respondent's treatment of five persons, Patient A through E. The Respondent's treatment for all five patients involved prescribing controlled substances.

The Hearing Committee found that the Respondent had failed to maintain adequate records for Patients A,B,C, and E. The Committee found the Respondent guilty of negligence on more than one occasion in the treatments of Patients A,C and D. The Committee found the Respondent not guilty of fraud in the practice of medicine.

The Committee found that the Respondent prescribed a variety of controlled substances and medications for Patients A,C and D without doing minimally necessary exams and histories of the patients. The Committee found that Patient A received drugs which were too many in number, too high in dosage, dangerous in their combined side effects and in some instances contraindicated. The Committee found that Patient C received enormous doses of addictive drugs which were contraindicated. The Committee found that the Respondent prescribed drugs for Patient D over a three year period, without any indication as to the reason or necessity for the prescriptions.

The Committee did not find negligence in the treatments of Patients B and E, because they determined that there was insufficient information available to determine whether the treatment for those patients was inappropriate.

The Committee found that the Respondent was not guilty of fraud in the treatment of Patient E. The Committee found that the Respondent had recreated some of Patient E's medical records. The Committee, however, concluded that there was no intent by the Respondent to mislead.

The Hearing Committee voted to place the Respondent on three years probation, ordered that he attend an evaluation and retraining course in controlled substances and suspended his authority to issue prescriptions for controlled substances for three months and until satisfactory completion of retraining. The Committee also required that the Respondent perform one hundred hours of community service. The Committee concluded that the Respondent demonstrated deficiencies in knowledge, skill and judgement, but felt that the Respondent was capable of learning from his errors and capable of rehabilitation.

REQUESTS FOR REVIEW

The Petitioner has requested that the Review Board modify the Hearing Committee's Determination and find that the Respondent was guilty of additional instances of negligence in his treatment of Patients B and E. The Petitioner argues that the Committee's Determination that the Respondent was not negligent in treating Patients B and E was inconsistent with the Committee's finding that the Patient's records include no medical history and no physical examination and with the Committee's finding that it was a deviation from accepted medical standards to fail to maintain appropriate medical records for a patient. The Petitioner argues that the Respondent should be held accountable for his treatment of Patients B and E and that the record contains sufficient information to question the appropriateness of the Respondent's treatment of the Patients.

The Petitioner asks that the review Board overturn the Hearing Committee's Penalty and revoke the Respondent's license to practice medicine in New York State. The Petitioner characterizes the Respondent's practice as little more than handing out prescriptions for controlled substances. The

Petitioner contends that there is little likelihood of changing the twenty year pattern of the Respondent's practice and that the sustained charges against the Respondent are so serious, that the only appropriate Penalty in this case is to revoke the Respondent's license.

REVIEW BOARD DETERMINATION

The Review Board has considered the 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 failure to maintain adequate medical records for Patients A,B,C and E and to sustain the Hearing Committee's Determination that the Respondent was guilty of negligence on more than one occasion in treating Patients A,C and E. The Review Board modifies the Hearing Committee's Determination to find that the Respondent was also guilty of negligence in treating Patients B and E. The Determination that the Respondent committed negligence in his treatment of Patients B and E is consistent with the Hearing Committee's finding of fact and conclusions.

As to Patient B, the Committee found that the Patient's record included no medical history and physical examination notes and there is no record that the Respondent prescribed Ativan and Valium for Patient B. The Committee concluded that there was insufficient information to sustain the allegation that the Respondent had prescribed Valium and Ativan inappropriately. As to Patient E, the Committee found that the Patient's record included no history or physical examination and that there was no record that the Respondent had prescribed Percodon to Patient E on seven occasions. The Committee also found that the Respondent prepared a portion if not all the record for Patient E several years subsequent to the Patient's visit. The Committee did not sustain an allegation that the Respondent's treatment of Patient E with Percodon was inappropriate.

In addition to the specific findings concerning Patients B and E, the Committee concluded it is a deviation from accepted medical standards not to do a physical examination and not to record the examination in each patient's medical chart. The Committee also concluded that it is a deviation from the accepted standard of medicine not to adequately or accurately reflect symptoms

and diagnoses in a patient's record and to fail to record prescriptions in each record.

The Committee's findings concerning Patients B and E, coupled with the Committee's conclusions concerning the accepted medical standards for maintaining records, demonstrates that the Respondent was negligent in treating Patients B and E. The Respondent certified that his records for Patients B and E were true and complete. The absence of information from these charts to justify prescribing controlled substances for the Patients, is sufficient proof that the Respondent did not take appropriate steps prior to prescribing the drugs and that the Respondent's treatment of those patients was inappropriate.

The Review Board votes to overturn the Hearing Committee's Determination to place the Respondent on probation, suspend his prescribing privileges and order the Respondent to undergo retraining. The Review Board finds that the penalty is inconsistent with the Committee's finding about the serious deficiencies in the Respondent's practice and is not appropriate to protect the public. The Review Board votes unanimously to revoke the Respondent's license to practice medicine.

The findings from the hearing demonstrate that the Respondent prescribed medication with a high potential for addiction to patients without minimally necessary examinations. In some of the cases the Respondent prescribed controlled substances in extremely high doses and in some cases he prescribed controlled substances without proper indication or when there was contraindication. The Committee found in the treatment of Patients A, C and D, that the Respondent's deviation from acceptable medical standards constituted more than errors in judgement or medical mistakes, but was intentional and negligent. The Review Board finds that the Hearing Committee's findings demonstrate that the Respondent's continued pattern of substandard practice and his inappropriate prescribing of addictive substances constitutes a danger to his patients.

The Review Board sees nothing in the Committee's findings or in the record to indicate to us that the Respondent can change his pattern of practice or learn from his mistakes. The Review Board finds that the Respondent has no insight into the deficiencies in his practice. The Respondent defended the absence of minimally necessary information from his medical records by claiming there had been burglaries at his office. The Respondent also admitted that he had prepared a portion if not all of Patient E's medical chart several years subsequent to the Patient's visits. The Committee found

that the Respondent's inappropriate treatment for Patients A, C and D was not only negligent but also intentional.

The Respondent's deficiencies do not result from a lack of training and can not be improved through re-education. The Respondent prescribes controlled substances without proper indication and despite contraindication. His pattern of practice is to provide drugs to persons without medical necessity and in violation of accepted standards of medicine. The only appropriate measure to protect the public from the dangerous pattern of the Respondent's practice is to revoke Dr. Chace's license to practice medicine in New York State.

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 28, 1994 Determination finding Dr. Henry V. Chase guilty of negligence on more than one occasion and failure to maintain adequate records, except that;

2. The Review Board **modifies** the Hearing Committee's Determination and finds that the Respondent was guilty of two additional instances of negligence arising from the Respondent's treatment to the patients identified in the Record as Patients B and E, and;

3. The Review Board **overturns** the Hearing Committee's Penalty placing the Respondent on probation, ordering that he undergo retraining and suspending his privileges to prescribe controlled substances, and;

4. The Review Board **votes unanimously to revoke** the Respondent's license to practice medicine in New York State.

ROBERT M. BRIBER

SUMNER SHAPIRO

WINSTON S. PRICE, M.D.

EDWARD SINNOTT, M.D.

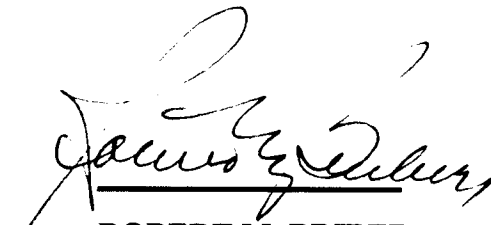
WILLIAM B. STEWART, M.D.

IN THE MATTER OF HENRY V. CHACE, D.O.

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. Chace.

DATED: Albany, New York

12/29, 1994


ROBERT M. BRIBER

IN THE MATTER OF HENRY V. CHACE, D.O.

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

DATED: Delmar, New York

Dec. 28, 1994

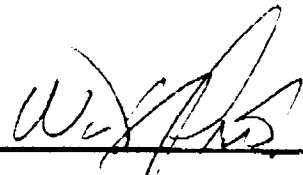

SUMNER SHAPIRO

IN THE MATTER OF HENRY V. CHACE, D.O.

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. Chace.

DATED: Brooklyn, New York

_____, 1994



WINSTON S. PRICE, M.D.

IN THE MATTER OF HENRY V. CHACE, D.O.

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. Chace.

DATED: Roslyn, New York

September 23, 1994

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

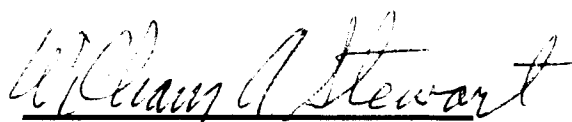
EDWARD C. SINNOTT, M.D.

IN THE MATTER OF HENRY V. CHACE, D.O.

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. Chace.

DATED: Syracuse, New York

27 Dec, 1994



WILLIAM A. STEWART, M.D.