



STATE OF NEW YORK DEPARTMENT OF HEALTH

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

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Karen Schimke
Executive Deputy Commissioner

September 28, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert Leighton, M.D.
44 Livingston Avenue
Poughkeepsie, New York 12601

Robert Leighton, M.D.
RR 2, Box 174-A
Salt Point Turnpike
Clinton Corners, New York 12514

James Eberz, Esq.
Meiselman, Farber, Packman & Eberz P.C.
118 North Bedford Road
P.O. Box 151
Mount Kisco, New York 10549

Diane Abeloff, Esq.
NYS Department of Health
Metropolitan Regional Office
5 Penn Plaza-Sixth Floor
New York, New York 10001

RECEIVED
SEP 29 1995
PROFESSIONAL
MEDICAL CONDUCT

RE: In the Matter of Robert Leighton, M.D.

Effective Date: 10/05/95

Dear Dr. Leighton, Mr. Eberz and Ms. Abeloff:

Enclosed please find the Determination and Order (No. 94-143) 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.

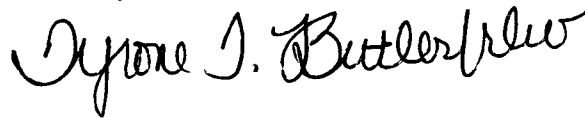
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified 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". The signature is written in a cursive style with a large, stylized initial "T".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm

Enclosure

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

IN THE MATTER
OF
ROBERT LEIGHTON, M.D.

ADMINISTRATIVE
REVIEW BOARD
DECISION AND
ORDER NUMBER
BPMC 95-143

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. and WILLIAM A. STEWART, M.D.** held deliberations on September 8, 1995 to review the Hearing Committee on Professional Medical Conduct's July 10, 1995 Determination finding Dr. Robert Leighton (Respondent) guilty of Professional Medical Conduct. The Respondent filed a Notice of Review, which the Board received on July 27, 1995. James F. Horan served as Administrative Law Judge to the Review Board. Neither the Respondent nor the Office of Professional Medical Conduct (Petitioner) filed a brief with the Review Board.

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 charged the Respondent, a psychiatrist, with practicing medicine with negligence on more than one occasion, practicing medicine while impaired by mental disability, failing to maintain adequate records, and, with committing misconduct in the practice of psychiatry by having physical conduct of a sexual nature with a patient.

The Hearing Committee sustained all of the charges against the Respondent. The Committee found that the Respondent had physical conduct of a sexual nature with a patient, whom the Record identifies as Patient "A". The Committee found that the Respondent was guilty of negligence on more than one occasion, because the Respondent deviated from accepted medical standards, by sharing his sexual fantasies with patients, by engaging in conversations of a sexual nature with patients, by allowing a patient to work for the Respondent rather than pay for services, and by allowing patients to listen to the Respondent's private telephone conversations with his wife. The Committee found that the Respondent's patient records were inadequate for several reasons. The Committee found that the Respondent did not maintain the records by patient name, did not maintain the records for patients separately, and sometimes did not note when medications were prescribed for patients in their records. The Committee found that when medication was noted, dosage and frequency were missing. The Committee also found that the records failed to document chief complaints, diagnoses and treatment plans and that the records contained personal notes about the Respondent. As to the charges involving impairment, the Committee found that the Respondent suffers from a mental disability and that he had practiced medicine while impaired by that disability. The Committee based that finding upon testimony by the Respondent's treating psychiatrist, Dr. Paul Garson, who testified that the Respondent suffers from obsessive compulsive disorder and bipolar illness. The Committee also

found that the Respondent's improper sexual contact with Patient A was a manifestation of the Respondent's impairment. The Committee noted that Dr. Garson testified that the Respondent needs additional treatment.

The Committee voted to revoke the Respondent's license to practice medicine. The Committee stated that if the Respondent receives the necessary treatment and concludes it successfully, he can at that time establish to the appropriate authority his qualifications to resume the practice of medicine.

REQUESTS FOR REVIEW

The Respondent filed a Notice of Review in this case on July 27, 1995, however, the Respondent has failed to file a brief. In the absence of a brief from the Respondent, the Review Board will consider whether the Hearing Committee's Determination and Penalty are consistent with the Hearing Committee's findings of fact and conclusions and will consider whether or not the penalty is appropriate and within the scope of penalties permitted by Public Health Law Section 230-a.

REVIEW BOARD DETERMINATION

The Review Board has considered the hearing record.

The Review Board votes to sustain the Hearing Committee's Determination finding the Respondent guilty of negligence on more than one occasion, failing to maintain adequate records, practicing medicine while impaired by mental disability and misconduct in the practice of psychiatry due to physical conduct of a sexual nature with a patient. The Committee's Determination is consistent with their findings of fact and with their conclusions and their findings are supported by the record in this case.

The Review Board votes unanimously to sustain the Hearing Committee's Determination to revoke the Respondent's license to practice medicine in New York State. The Record demonstrates clearly that the Respondent is impaired in the practice of medicine. The testimony by the Respondent's own treating psychiatrist indicates that the Respondent is in need of further treatment.

The Hearing Committee found that the Respondent's impairment has manifested itself both through the Respondent's sexual conduct with Patient A and through the other deviations from acceptable medical conduct which the Hearing Committee found that the Respondent had committed. Due to the serious and ongoing nature of the Respondent's impairment, the Review Board concludes that revocation is the appropriate penalty in this case.

ORDER

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

1. The Review Board votes 5-0 to **SUSTAIN** the Hearing Committee's July 10, 1995 Determination finding Dr. Robert Leighton guilty of professional misconduct.

2. The Review Board votes 5-0 to **SUSTAIN** the Hearing Committee's Determination revoking the Respondent's license to practice medicine in New York State.

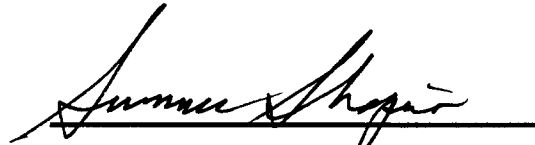
ROBERT M. BRIBER
SUMNER SHAPIRO
WINSTON S. PRICE, M.D.
EDWARD SINNOTT, M.D.
WILLIAM A. STEWART, M.D.

IN THE MATTER OF ROBERT LEIGHTON, 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. Leighton.

DATED: Delmar, New York

Sept 21, 1995

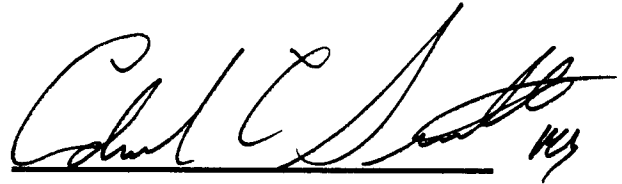

SUMNER SHAPIRO

IN THE MATTER OF ROBERT LEIGHTON, 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. Leighton.

DATED: Roslyn, New York

Sept 21, 1995

A handwritten signature in cursive script, appearing to read "Edward C. Sinnott", with a horizontal line underneath. To the right of the signature, there are initials "ES" and the number "143".

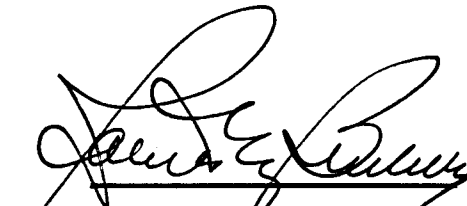
EDWARD C. SINNOTT, M.D.

IN THE MATTER OF ROBERT LEIGHTON, 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. Leighton.

DATED: Albany, New York

Sept 22, 1995



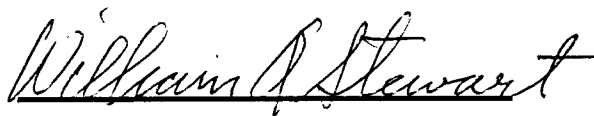
ROBERT M. BRIBER

IN THE MATTER OF ROBERT LEIGHTON, 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. Leighton.

DATED: Syracuse, New York

19 Sept., 1995

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.