



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

April 1, 1993

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Chin Lin Cheng, M.D.  
200 A Morrison Boulevard  
Bristol, Virginia 24201

Kevin P. Donovan, Esq.  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower - Room 2438  
Empire State Plaza  
Albany, New York 12237

**RE: In the Matter of Chin Lin Cheng, M.D.**

Dear Dr. Cheng and Mr. Donovan:

Enclosed please find the Determination and Order (No. ARB-93-02) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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  
CHIN LIN CHENG, M.D. : DETERMINATION  
: AND ORDER  
: ORDER NO. ARB-93-02

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A quorum of the Administrative Review Board for Professional Medical Conduct (hereinafter the "Review Board"), consisting of ROBERT M. BRIBER, MARYCLAIRE B. SHERWIN, EDWARD C. SINNOTT, M.D. and WILLIAM A. STEWART, M.D.<sup>1</sup> held deliberations on on March 8, 1993 to review the Professional Medical Conduct Hearing Committee's (hereinafter the "Hearing Committee") January 7, 1993 Determination and Order finding Dr. Chin Lin Cheng guilty of professional misconduct, but imposing no penalty against him. The Office of Professional Medical Conduct (OPMC) requested the Administrative Review through a Notice of Review which the Board received on January 21, 1993. James F. Horan, Esq. served as Administrative Officer to the Review Board. Chin Lin Cheng, M.D. filed a Brief on his own behalf on February 16, 1993 and Kevin Donovan, Esq. filed a Brief on behalf of the OPMC on February 5, 1993.

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<sup>1</sup> 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) §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 Office of Professional Medical Conduct brought this proceeding against Dr. Cheng pursuant to PHL §230(10)(p) and Education Law §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

Department had met its burden of proof in establishing that the Virginia Board of Medicine disciplined the Respondent for prescribing inappropriately various controlled substances with a high potential for abuse to 18 patients over the period between March 1985 and January 1986. The Hearing Committee concluded that this conduct would have constituted negligence on more than one occasion and incompetence on more than one occasion if the conduct had occurred in New York.

The Hearing Committee did not impose a penalty. The Hearing Committee found that:

- the Respondent's misconduct had occurred seven years ago;
- the State of Virginia had disciplined the Respondent;
- the State of Virginia had monitored the Respondent's practice and found his medical skills to be within accepted norms;
- the Respondent had obtained remediation through continuing medical education courses; and
- the Respondent had practiced without deviations from accepted practice standards during a period of probation in Virginia.

The Hearing Committee concluded that the Respondent was genuinely remorseful and had taken sufficient steps to ensure that he would not repeat his misconduct.

#### REQUESTS FOR REVIEW

OPMC requests that the Review Board impose a penalty in this case suspending the Respondent's license to practice medicine in New York for six months, with the entire suspension

stayed. The Brief for OPMC argues that the Respondent committed serious misconduct and that imposing no penalty for inappropriate prescribing would send the wrong message to the Respondent and other practitioners.

The Respondent argues that Virginia has already punished him severely for the misconduct involved in this case, that further sanctions against him would be punitive and that further sanctions would not serve the public interest.

### REVIEW BOARD DETERMINATION

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

The Review Board votes unanimously to sustain the Hearing Committee's Determination and Order finding that Dr. Cheng committed professional misconduct based upon the Virginia Board of Medicine's finding that the Respondent inappropriately prescribed controlled substances to 18 patients.

The Review Board votes to sustain the Hearing Committee's Determination and Order not to impose a penalty in this case. The Hearing Committee's conclusion not to impose a penalty is consistent with their findings that the Respondent had taken sufficient steps to insure that he would not repeat his misconduct and that monitoring in Virginia had determined that the Respondent was practicing without deviations from accepted practice standards. The Review Board sees no reason to interfere with the penalty.

**ORDER**

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

1. The January 4, 1993 Determination and Order by the Hearing Committee on Professional Medical Conduct finding Chin Lin Cheng, M.D. guilty of professional misconduct based upon the Virginia Board of Medicine's determination that the Respondent prescribed controlled substances inappropriately for 18 patients is hereby **sustained**.
2. The Hearing Committee's Determination and Order not to impose a penalty against Dr. Cheng's license to practice medicine in New York State is here by **sustained**.

**ROBERT M. BRIBER**

**MARYCLAIRE B. SHERWIN**

**EDWARD C. SINNOTT, M.D.**

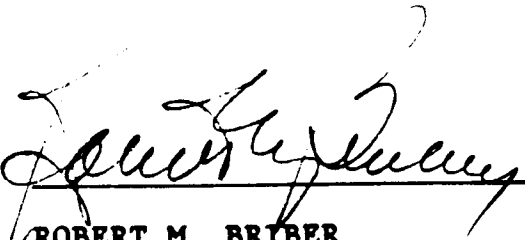
**WILLIAM A. STEWART, M.D.**

**IN THE MATTER OF CHIN LIN CHENG, 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 Chin Lin Cheng, M.D.

**DATED: Albany, New York**

**March 27, 1993**



**ROBERT M. BRIBER**




**IN THE MATTER OF CHIN LIN CHENG, 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 Chin Lin Cheng, M.D.

**DATED: Albany, New York**

**March 27, 1993**

  
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**MARYCLAIRE B. SHERWIN**

**IN THE MATTER OF CHIN LIN CHENG, 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 Chin Lin Cheng, M.D.

**DATED: Albany, New York**

**March 27, 1993**

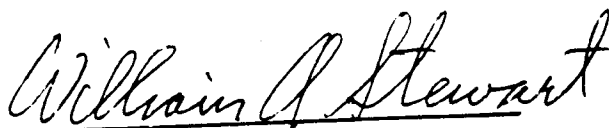
A handwritten signature in black ink, appearing to read 'Edward C. Sinnott', written over a horizontal line.

**EDWARD C. SINNOTT, M.D.**

IN THE MATTER OF CHIN LIN CHENG, 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

DATED: Albany, New York  
March 27, 1993

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.



**Board for Professional Medical Conduct**

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

**C. Maynard Guest, M.D.**  
Executive Secretary

January 20, 1993

Mr. Robert Bentley  
Director  
Division of Professional Licensing Services  
New York State Education Department  
Empire State Plaza-Cultural Education Center  
Albany, New York 12230

RE: License No. 123043

Dear Mr. Bentley:

Enclosed please find Order #BPMC 93-02 of the New York State Board for Professional Medical Conduct concerning Dr. Chin Lin Cheng.

Please be advised that this determination by the hearing committee may be appealed to the Administrative Review Board by either side within fourteen (14) days of the service of this order. We will notify you if any such appeal is taken.

Sincerely,

C. Maynard Guest, M.D.  
Executive Secretary  
Board for Professional Medical Conduct

Enclosure

cc: Daniel Kelleher

bcc: Chris Hyman  
Peter Van Buren  
Tyrone Butler  
Kenneth Spooner  
Anne Bohenek