



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

February 20, 1996

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Frederick Zimmer, Esq.
NYS Dept. of Health
Rm. 2438 Corning Tower
Empire State Plaza
Albany, New York 12237

Edward Woods, M.D.
4 Poinciana Drive
Durham, North Carolina 27707

Effective Date: 02/27/96

RE: In the Matter of Edward Woods, M.D.

Dear Mr. Zimmer and Dr. Woods :

Enclosed please find the Determination and Order (No. 95-257) of the Professional Medical Conduct Administrative Review Board in the above referenced matter. The 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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:

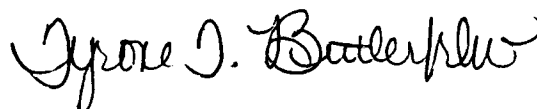
Office of Professional Medical Conduct
New York State Department of Health
Empire State Plaza
Corning Tower, Room 438
Albany, New York 12237

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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,



Tyrone T. Butler, Director
Bureau of Adjudication

TTB:

Enclosure



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

COPY

IN THE MATTER
OF
EDWARD WOODS, M.D.

ADMINISTRATIVE
REVIEW BOARD
DECISION AND
ORDER NUMBER
ARB NO. 95-257

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A quorum of the Administrative Review Board for Professional Medical Conduct (hereinafter the "Review Board"), consisting of **ROBERT M. BRIBER, WINSTON S. PRICE, M.D., EDWARD C. SINNOTT, M.D.** and **WILLIAM A. STEWART, M.D.**¹ held deliberations on January 26, 1996 to review the Hearing Committee on Professional Medical Conduct's (Hearing Committee) November 1, 1995 Determination finding Dr. Edward Woods (Respondent) guilty of professional misconduct. The Respondent requested the Review through a Notice which the Board received on November 20, 1995. James F. Horan served as Administrative Officer to the Review Board. The Respondent filed a brief on his own behalf which the Review Board received on December 21, 1995. Frederick Zimmer, Esq. submitted a reply brief for the Office of Professional Medical Conduct (Petitioner), which the Board received on January 2, 1995.

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

¹Sumner Shapiro did not participate in the deliberations in this case. Dr. Stewart participated in the deliberations by telephone.

- 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 gross negligence, gross incompetence, negligence on more than one occasion, incompetence on more than one occasion, and failing to maintain adequate records. The allegations concerned emergency medical care which the Respondent provided to seven persons, whom the record refers to as Patients A through G.

The Hearing Committee found the Respondent guilty of negligence on more than one occasion and gross negligence in his treatment for Patients A through G. The Committee found the Respondent guilty of gross incompetence and incompetence on more than one occasion in his treatment for Patients A through E and G. The Committee found the Respondent guilty of failure to maintain accurate records for Patients A through F.

The Committee found that the Respondent failed to detect an obvious cervical fracture and ordered a premature discharge for Patient A. In the case of Patient B, the Committee found that the Respondent failed to record an adequate history, failed to investigate adequately or treat the Patient's hypertension, failed to make a medically acceptable diagnosis, inappropriately prescribed medication that can elevate blood pressure and inappropriately discharged the Patient. In the case of Patient C, the Committee found that the Respondent failed to treat Patient C's continued pain with nitroglycerin and that the Respondent failed to treat the Patient with thrombolytic therapy to dissolve blood clots. In the case of Patient D, the Committee found that the Respondent failed to perform adequate pelvic or rectal examinations on the Patient, who was complaining of abdominal pain. In the case of Patient E, the Committee found that the Respondent failed to perform an adequate physical examination of the Patient's broken ankle, failed to interpret adequately an X-ray of the ankle and provided the Patient

with inappropriate discharge instructions. In the case of Patient F, the Committee found that the Respondent failed to perform and record a neurological exam to detect damage or injuries to the Patient's spine and neck, following the Patient's injury in an automobile accident. In the case of Patient G, the Committee found that the Respondent failed to administer rabies immunoglobulin and to have vaccinations administered to the Patient, after the Patient was bitten by a wild raccoon.

The Committee found that the cases of three Patients, C, D and G stand out from the others, due to the dangers the Respondent's care posed to the Patients and because they document the Respondent's capabilities. In the case of Patient C, the Committee found that, even though the Respondent had diagnosed the Patient as suffering from acute myocardial infarction and even though the Patient was in pain, the Respondent did not treat the Patient with nitroglycerin and the Respondent did not use thrombolytic therapy. In the case of Patient D, the Committee found that the Respondent failed to perform a pelvic or rectal examination, for a patient with lower quadrant abdominal pain and slight abdominal distention. The Committee found that the pelvic exam would be routine for a patient with lower quadrant pain, to assess whether there were problems with her reproductive organs. The Committee found that the rectal examination was necessary to check for masses causing abdominal obstruction or blood in the stool. In the case of Patient G, the Committee found that the Respondent's failed treatment placed the Patient at risk of rabies. The Committee found that these three cases, and the other four that were subjects of the hearing, spoke to the Respondent's deviations from acceptable standards of care in emergency cases, with many patients at critical risk. The Committee concluded that the Respondent has practiced emergency medicine for about sixteen years, that his skill and judgement were both in question and that it can not be anticipated that the Respondent can change. The Committee voted to revoke the Respondent's license to practice medicine in New York State.

REQUESTS FOR REVIEW

RESPONDENT: The Respondent argues that the Petitioner's allegations are not supported by the record and that the Hearing Committee's penalty was harsh. The Respondent argues that there was inadequate staffing and poor conditions at the Good Samaritan Hospital in Watertown, New York, where the Respondent provided the care for Patients A through G. The Respondent alleges that he was denied due process because he did not receive requested adjournments to allow himself, or his prior counsel, time to prepare a defense. The Respondent's brief discusses each patient case and argues that the Respondent attempted to treat each patient as thoroughly as possible and care for the patient's needs to the highest degree. The Respondent states that he caused no additional morbidity.

In his Response to the Petitioner, the Respondent contends that the Petitioner's expert witness did not practice emergency medicine and the Respondent disputes some testimony by the Petitioner's expert concerning the Respondent's treatment for Patient C.

PETITIONER: The Petitioner contends that the Respondent had adequate time to prepare for his defense. The Petitioner argues further that the Committee's Determination is consistent with the findings of fact. The Petitioner contends that the Respondent may not relitigate this case before the Review Board. The Petitioner argues that revocation is the proper penalty in this case, because the Respondent's practice of medicine places patients at critical risk and because the Respondent is unlikely to change his practice at this point of his career.

REVIEW BOARD DETERMINATION

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

The Review Board votes 4-0 to sustain the Hearing Committee's Determination finding the Respondent guilty of gross negligence, gross incompetence, incompetence on more than one occasion, negligence on more than one occasion and failure to maintain adequate records. The Review Board

finds that the Committee's Determination is consistent with their findings and conclusions that the Respondent failed to perform adequate examinations or tests on seven patients, treated and discharged patients improperly and, in some cases, placed patients at critical risk.

The Review Board rejects the Respondent's contention that the Hearing Committee denied him due process by failing to grant him extensions of time to obtain counsel and prepare a defense. The Board finds that the Respondent did receive extensions of time from the Committee to allow a new attorney time to review his case and to allow the Respondent to prepare for his testimony. The Respondent contended in his brief that since the Petitioner had three years to prepare the charges in this case, the Respondent deserved equal time to prepare rebuttal testimony and expert witnesses. The Review Board finds no merit in that argument. The Respondent had notice of the charges from March 5, 1995, he had until July 11, 1995 to prepare his case and he had the opportunity to testify and to present evidence on his behalf at the hearing.

The Review Board finds no merit in the Respondent's challenge to the credibility of the Petitioner's witness Dr. Jastremski. The Respondent challenged Dr. Jastremski's expertise, because the Respondent did not concentrate all his efforts in practicing emergency medicine. There is, however, no requirement that an expert be a specialist in the same field of medicine as the Respondent. It is necessary only that the expert possess the requisite, skill, training, education, knowledge and experience from which it can be assumed that the opinion rendered is reliable, Matter of Enu v. Sobol, 208 AD2d 1123, 617 NYS2d 960 (Third Dept. 1994). The Hearing Committee as finder of fact has the best opportunity to assess the credibility of witnesses. In this case, the Committee credited the testimony by Dr. Jastremski and rejected conflicting testimony by the Respondent. Clearly, the Committee can consider the Respondent's stake in the outcome of this case as bias and can consider that bias as a ground for finding that the Respondent was not a credible witness.

The Review Board votes 4-0 to sustain the Hearing Committee's Determination to revoke the Respondent's license to practice medicine in New York State. The Respondent committed gross negligence and gross incompetence on repeated occasions. The Respondent placed patients at serious risk and continually failed to perform necessary tests and provide appropriate treatment. Despite his

continued mistakes, the Respondent fails to appreciate that he is not providing adequate care and he refuses to acknowledge his mistakes. There is nothing in this record that indicates that the Respondent has the ability, insight and motivation to correct his pattern of poor practice. The Board agrees with the Hearing Committee that the Respondent constitutes a danger to the public, especially in emergency medicine. Repeated and severe misconduct warrants revocation of a physician's license. The Board agrees that the revocation of the Respondent's license is the appropriate penalty in this case.

ORDER

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

1. The Review Board **SUSTAINS** the Hearing Committee's November 1, 1995 Determination finding the Respondent guilty of professional misconduct.

2. The Review Board **SUSTAINS** the Hearing Committee's Determination revoking the Respondent's license to practice medicine in New York State.


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

IN THE MATTER OF EDWARD L. WOODS, 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. Woods.

DATED: Brooklyn, New York

2/16, 1995



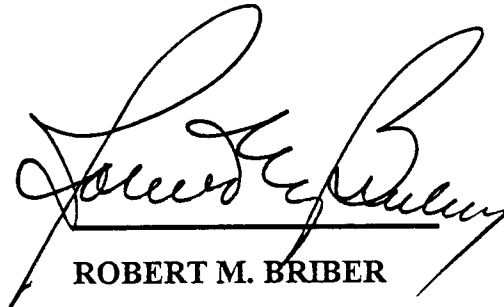
WINSTON S. PRICE, M.D.

IN THE MATTER OF EDWARD L. WOODS, 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. Woods.

DATED: Schenectady, New York

2/14, 1995



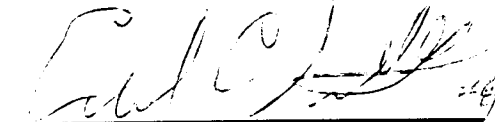
ROBERT M. BRIBER

IN THE MATTER OF EDWARD L. WOODS, 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. Woods.

DATED: Roslyn, New York

Feb 7, 1996

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 EDWARD L. WOODS, 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. Woods.

DATED: Syracuse, New York

5 Feb, 1995



WILLIAM A. STEWART, M.D.