



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

November 18, 1992

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Edmunds Olowosuko, M.D.
670 Eastern Parkway
Brooklyn, New York 11213

Martin Paul Solomon, Esq.
286 Fifth Avenue
New York, New York 10001

Dianne Abeloff, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
5 Penn Plaza - Sixth Floor
New York, New York 10001-1810

RE: In the Matter of Edmunds Olowosuko, M.D.

Dear Dr. Olowosuko, Mr. Solomon and Ms. Abeloff:

Enclosed please find the Determination and Order (No. BPMC-92-48-R) 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.

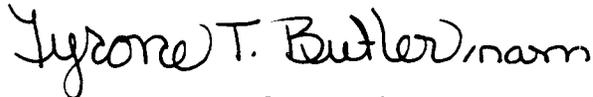
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified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

A handwritten signature in black ink that reads "Tyrone T. Butler, nam". The signature is written in a cursive style.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nam
Enclosure

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

-----X
: IN THE MATTER : ADMINISTRATIVE
: OF : REVIEW BOARD
: EDMONDS OLOWOSUKO, D.O. : DETERMINATION
: : AND ORDER
: ORDER NO. BPMC-92-48-R
: -----X

Following initial deliberations in this case on August 6, 1992, the Administrative Review Board for Professional medical Conduct remanded this case to and instructed the original Hearing Committee to issue a Supplemental Determination setting out its reasons for revoking Dr. Edmonds Olowosuko's license to practice medicine in New York State (ARB Order 92-48-A, attached). The Hearing Committee issued their Supplemental Determination to the Review Board and the parties on September 16, 1992.

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.¹ held additional deliberations in this case on October 14, 1992 to review the entire record from the hearing in this case, the Briefs submitted by the parties prior to the August deliberation, and the September 16, 1992 Supplemental Determination. JAMES F.

¹ 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

HORAN, ESQ., served as Administrative Officer to the Review Board.

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 Section 230-a.

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

PHL Section 230-c(4)(c) provides that the Review Board's determinations shall be based upon a majority concurrence of the Review Board.

ORIGINAL HEARING COMMITTEE DETERMINATION

The Department of Health charged Doctor Olowosuko with practicing medicine with an inactive license and having a psychiatric condition which impairs the ability to practice.

The OPMC Hearing Committee which considered the case consisted of Conrad Rosenberg, M.D., Chairperson, Elizabeth

Frost, M.D. and Lynn Hennecke, Ph.D. Michael P. McDermott served as Administrative Officer. The Hearing Committee determined that the Department had proved that Doctor Olowosuko had continued to practice medicine after he had surrendered his license and that he had a mental condition which impaired his ability to practice the profession. The Hearing Committee voted unanimously to revoke Doctor Olowosuko's license.

REMAND ORDER

Following its August 6, 1992, Deliberation, the Review Board determined unanimously that the Board was unable to complete its review of this case without learning the specific reasoning behind the Hearing Committee's Determination to revoke Doctor Olowosuko's license. The Review Board remanded the case to the Hearing Committee to issue a Supplemental Determination setting out its reasons for imposing the revocation penalty in this case. The Review Board asked that the Committee address:

- the Committee's reasoning in imposing the penalty;
- whether or not the Hearing Committee considered other penalties;
- whether the Respondent's failure to testify influenced the Hearing Committee; and
- whether the Hearing Committee felt that either of the sustained charges were sufficient alone to require the revocation penalty or whether the penalty was based on the combination of the two sustained charges.

SUPPLEMENTAL DETERMINATIONS

The Hearing Committee responded to the Review Board's questions on pages 3-5 of their Supplemental Determination. The text follows:

"1. The Hearing Committee was aware of the legal rule that the failure of a party in a civil case to call himself as a witness to testify to the facts in a controversy may give rise to an unfavorable inference and that where an adversary withholds evidence in his possession or control that would be likely to support his version of the case, the strongest inference may be drawn against him which the opposing evidence in the record permits.

"In this case, the Respondent made absolutely no attempt to contradict the testimony of the Petitioner's witnesses.

"2. The Hearing Committee did not vote to sustain the charges against the Respondent simply on the basis of his failure to testify but because the credible testimony and evidence presented by the Petitioner raised the legal presumption of the truth of these facts, which must have been known to the Respondent, and which he failed to contradict. In short, the Petitioner proved its case by a preponderance of the evidence, and said evidence was not contradicted by the Respondent.

"3. Penalty

"Pursuant to its Determination, the Hearing Committee ORDERED that the Respondent's license to practice medicine in the State of New York be REVOKED. This penalty was imposed after due consideration of the full spectrum of available penalties, including revocation, suspension, probation, censure and reprimand or the imposition of civil penalties not to exceed \$10,000 per violation.

"In February 1991, the Respondent surrendered his license to practice medicine and he subsequently resumed his medical practice while his licensure status was "inactive." According to credible testimony, the Respondent was cautioned against resuming practice and in essence replied that he had no intention of stopping and would continue despite any legal injunction.

"In June 1991, the Respondent was the subject of an extensive psychological evaluation. The examining psychologist concluded that the evaluation suggested several areas of serious cognitive dysfunction including a fair amount of intellectual deterioration and also suggested serious cortical dysfunction.

"Based on the uncontradicted credible evidence the Hearing Committee determined that the Respondent is seriously impaired. He has shown extremely poor judgment in resuming his medical practice and he has put his patients at risk in doing so.

"Under these circumstances and given the Respondent's attitude that he intends to continue to practice despite any legal injunctions, the Hearing Committee is convinced that there is no remedial action short of REVOCATION which will adequately protect the welfare of the people of the State of New York.

"It is the position of the Hearing Committee that either of the sustained charges were sufficient alone to require the REVOCATION penalty."

REVIEW BOARD DETERMINATION

The Review Board has considered the entire record below, including the Statement of Charges, the transcript of the hearing, the briefs the parties submitted for the Review Board's initial deliberation in August and the Hearing Committee's September 16, 1992 Supplemental Determination.

The Review Board votes unanimously to sustain the Hearing Committee's Determination that Respondent was guilty of practicing medicine with an inactive license. The Hearing Committee's Determination is consistent with its Findings of Fact and Conclusions and is supported by the testimony from the Department's witnesses Doctor Sorrell, Mr. Hartoularos and Ms. Consalves, whom the Hearing Committee found to be knowledgeable and credible in their testimony.

The Review Board votes unanimously to sustain the Hearing Committee's Determination that the Respondent has a psychiatric condition which impairs his ability to practice medicine. The Determination was consistent with the Hearing Committee's findings and conclusions and the Determination was supported by the testimony of Doctor Sheldon Itzkowitz.

Based upon the responses set out at pages 3-5 of the Hearing Committee's Supplemental Determinations, the Review Board sustains the Hearing Committee's Determination revoking Dr. Edmunds Olowosuko's license to practice medicine in the State of New York, except that we amend the Determination to add the Hearing Committee's responses from pages 3-5 of the Supplemental Determination. The penalty is consistent with the Findings and Conclusions that the Respondent continued to practice medicine after he had surrendered his license and the Respondent was impaired in the practice of medicine due to a psychiatric condition. The penalty is appropriate pursuant to PHL Section 230-a.

ORDER

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

1. The June 7, 1992 Determination by the Hearing Committee on Professional Medical Conduct is hereby sustained.

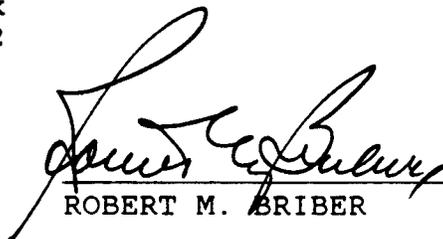
2. The Hearing Committee's Determination revoking Edmonds Olowosuko's license to practice medicine in the State of New York is hereby amended as noted in this Determination, and the Determination, as amended, revoking Doctor Olowosuko's license is sustained.

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

IN THE MATTER OF EDMONDS OLOWOSUKO, 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 Doctor Olowosuko.

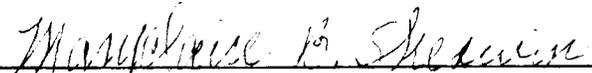
DATED: Albany, New York
October 30, 1992


ROBERT M. BRIBER

IN THE MATTER OF EDMONDS OLOWOSUKO, D.O.

MARYCLAIRE B. SHERWIN, a member of the Administrative Review Board for Professional Medical Conduct concurs in the Determination and Order in the matter of Doctor Olowosuko.

DATED: Albany, New York
October 29, 1992

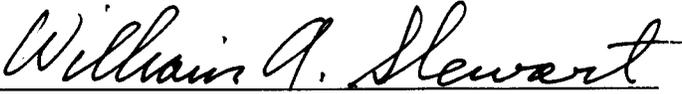


MARYCLAIRE B. SHERWIN

IN THE MATTER OF EDMONDS OLOWOSUKO, 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 Doctor Olowosuko.

DATED: Syracuse, New York
~~October~~, 1992
November 12


WILLIAM A. STEWART, M.D.

IN THE MATTER OF EDMONDS OLOWOSUKO, 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 Doctor Olowosuko.

DATED: Roslyn, New York
October 28, 1992

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

EDWARD C. SINNOTT, M.D.

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

IN THE MATTER : HEARING COMMITTEE
OF : SUPPLEMENTAL
EDMOLDS OLOWOSUKO, D.O. : DETERMINATION

By Administrative Review Board Determination and Order, Order No. BPMC-92-48-A, the Administrative Review Board for Professional Medical Conduct remanded this case to the Hearing Committee and directed the Hearing Committee to issue a Supplemental Determination setting out its reasons for imposing the revocation penalty in this case.

It ordered that the Supplemental Determination should address:

- the Committee's reasoning in imposing the penalty;
- whether or not the Hearing Committee considered other penalties;
- whether the Respondent's failure to testify influenced the Hearing Committee; and
- whether the Hearing Committee felt that either of the sustained charges were sufficient alone to require the revocation penalty, or, whether the penalty was based on the combination of the two sustained charges.

SUMMARY OF THE HEARING COMMITTEE'S

FINDINGS AND DETERMINATIONS

On February 11, 1991 the Respondent signed a "Temporary Surrender of License and Registration." Paragraph 8 of this document reads, "I understand that unless and until my license is restored to me, my licensure status is "inactive" and I am not authorized to practice medicine in the State of New York."

Subsequent investigation revealed that the Respondent resumed the practice of medicine while his license was inactive, and when confronted about it he replied that he needed to earn money to continue to exist; that he was educated; that this was his trade; this is what he did for a living; and if there was legal things about it he would not stop his practice.

ON June 8, 22 and 29, 1991 the Respondent was examined by Sheldon H. Itzkowitz, Ph.D. a psychologist on the faculty of St. Lukes-Roosevelt Hospital Center. Dr. Itzkowitz's psychological evaluation report on the Respondent contained the following CONCLUSION: "The results of the current evaluation suggests several areas of serious cognitive dysfunction including a fair amount of intellectual deterioration, if in fact Dr. Olowosuko has never had an alcohol or drug problem. The current findings strongly suggest serious cortical dysfunction as no serious psychopathology was noted."

The Petitioner's witnesses were knowledgeable and

credible and their testimony was uncontroverted. The Respondent and his attorney were present during the entire hearings but the Respondent did not testify nor were any witnesses called to testify on his behalf.

Based on the entire record, the Hearing Committee voted (3-0) to SUSTAIN the first Specification - PRACTICING MEDICINE WITH AN INACTIVE LICENSE. (See Findings of Fact Nos. 2, 5, 6, 7, 8, 9 and 10.)

The Hearing Committee also voted (3-0) to SUSTAIN the Second Specification - HAVING A PSYCHIATRIC CONDITION WHICH IMPAIRS THE ABILITY TO PRACTICE. (See Findings of Fact Nos. 11, 12 and 13.)

SUPPLEMENTAL DETERMINATIONS

1. The Hearing Committee was aware of the legal rule that the failure of a party in a civil case to call himself as a witness to testify to the facts in a controversy may give rise to an unfavorable inference and that where an adversary withholds evidence in his possession or control that would be likely to support his version of the case, the strongest inference may be drawn against him which the opposing evidence in the record permits.

In this case, the Respondent made absolutely no attempt to contradict the testimony of the Petitioner's witnesses.

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to testify but because the credible testimony and evidence presented by the Petitioner raised the legal presumption of the truth of these facts, which must have been known to the Respondent, and which he failed to contradict. In short, the Petitioner proved its case by a preponderance of the evidence, and said evidence was not contradicted by the Respondent.

3. PENALTY

Pursuant to its Determination, the Hearing Committee ORDERED that the Respondent's license to practice medicine in the State of New York be REVOKED. This penalty was imposed after due consideration of the full spectrum of available penalties, including revocation, suspension, probation, censure and reprimand or the imposition of civil penalties not to exceed \$10,000 per violation.

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In June 1991, the Respondent was the subject of an extensive psychological evaluation. The examining psychologist concluded that the evaluation suggested several areas of serious cognitive dysfunction including a fair amount of intellectual

deterioration and also suggested serious cortical dysfunction.

Based on the uncontradicted credible evidence the Hearing Committee determined that the Respondent is seriously impaired. He has shown extremely poor judgment in resuming his medical practice and he has put his patients at risk in doing so.

Under these circumstances and given the Respondent's attitude that he intends to continue to practice despite any legal injunctions, the Hearing Committee is convinced that there is no remedial action short of REVOCATION which will adequately protect the welfare of the people of the State of New York.

It is the position of the Hearing Committee that either of the sustained charges were sufficient alone to require the REVOCATION penalty.

DATED: September 16, 1992


CONRAD ROSENBERG, M.D.
Chairman

ELIZABETH A.M. FROST, M.D.
LYNNE HENNECKE, Ph.D.