



STATE OF NEW YORK DEPARTMENT OF HEALTH

Office of Public 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

July 22, 1996

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Paul Stein, Esq.
NYS Department of Health
5 Penn Plaza-Sixth Floor
New York, New York 10001

Leland Stuart Beck, Esq.
Beck, Salvi & Gewurz
595 Stewart Avenue

Louis Parrish, M.D.
242 East 72nd Street
New York, New York 10001

RE: In the Matter of Louis Parrish, M.D.

Effective Date: 07/29/96
Dear Mr. Stein, Mr. Beck and Dr. Parrish:

Enclosed please find the Determination and Order (No.96-62) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 cursive script that reads "Tyrone T. Butler".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB rlw

Enclosure

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

COPY

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IN THE MATTER : ADMINISTRATIVE
: REVIEW BOARD
OF : DECISION AND
: ORDER NUMBER
LOUIS PARRISH, M.D. : ARB# 96-62
-----X

The Administrative Review Board for Professional Medical Conduct (hereinafter the "Review Board"), consisting of SUMNER SHAPIRO, ROBERT M. BRIBER, WINSTON S. PRICE, M.D., EDWARD SINNOTT, M.D., and WILLIAM A. STEWART, M.D. held deliberations on June 7, 1996 to review the Hearing Committee on Professional Medical Conduct's (hereinafter the "Hearing Committee") March 19, 1996 Determination finding Dr. Parrish guilty of professional misconduct. The Petitioner requested the Review through a Notice which the Board received on March 28, 1996. The Respondent requested a cross-appeal through a Notice which the Board received on April 1, 1996. Larry G. Storch served as Administrative Officer to the Review Board. Paul Stein, Esq., Associate Counsel, filed a brief for the Petitioner which the Review Board received on April 26, 1996. Leland Stuart Beck, Esq. filed a brief for the Respondent which the Review Board received on April 29, 1996. The Respondent and Petitioner filed reply briefs which were received by the Review Board on May 2, 1996 and May 6, 1996, respectively.

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 with thirty specifications of professional misconduct, including allegations of practicing with gross incompetence, gross negligence, incompetence on more than one occasion, negligence on more than one occasion, ordering of excessive treatment and failure to maintain records. These allegations concern the Respondent's medical care and treatment of seven patients from 1987 through 1994.

The Hearing Committee sustained ten specifications of

professional misconduct (the Fifteenth, Sixteenth, Nineteenth through Twenty-second, Twenty-fourth through Twenty-sixth, and Thirtieth Specifications), based upon a determination that the Respondent was guilty of negligence and incompetence on more than one occasion with respect to each of the seven named patients. In addition, the Committee found the Respondent guilty of ordering excessive treatment with respect to four of the patients (Patients C, D, E and F) and failure to maintain records with respect to four patients (Patients A, B, C and G).

The Hearing Committee found that the Respondent's medical practice is primarily devoted to treating patients whose symptoms involve intestinal disorder and/or discomfort and who are suspected of having enteric protozoa. The Committee further found that many of the allegations against the Respondent stemmed from his use of the "rectal swab technique". This procedure involves using a cotton swab to obtain a small stool sample directly from the patient's rectum, as opposed to obtaining a defecated stool sample and analyzing the sample for the presence of parasites. The Respondent did not present any scientific proof of the validity of the rectal swab as a diagnostic tool. Consequently, the Committee found that the accuracy of the Respondent's rectal swab technique has not been established and his reliance on the technique to make a diagnosis was unjustified.

The Hearing Committee found that on three occasions in 1984, the Respondent treated Patient A, a 34 year old male. The Committee further found that the Respondent's medical history and

physical examination of the patient were inadequate, and that he failed to obtain a complete blood count (CBC) with differential and a complete defecated stool sample examination. In addition, the Committee found that the Respondent failed to make and/or keep fixed and stained slides of parasitology samples taken from the patient. The Committee further found that the Respondent's records for Patient A did not include reports of laboratory tests and specific dosages of drugs prescribed.

The Hearing Committee also found that between March, 1993 and July, 1993, the Respondent treated Patient B, a 34 year old female. The Committee found that he failed to perform an adequate physical examination and did not make fixed and stained slides of parasitology specimens taken from the patient. They also found that the Respondent's records for Patient B did not include reports of laboratory tests and specific dosages of drugs prescribed.

The Respondent treated Patient C, a 35 year old female, between February, 1989 and January, 1990, for complaints of diarrhea and abdominal cramps. The Hearing Committee found that the Respondent did not obtain an adequate medical history and did not perform an adequate physical examination of the patient. The Respondent failed to perform indicated diagnostic studies, including a CBC with differential, and a complete defecated stool sample examination. The Committee further found that the Respondent used the rectal swab technique to diagnose intestinal parasites in Patient C, and that he failed to make and/or keep fixed and stained slides of parasitology specimens taken from the

patient.

The Hearing Committee further found that the Respondent diagnosed Patient C as suffering from *Entamoeba histolytica* and *Giardia lamblia* without an adequate basis for the diagnosis, and that he thereafter inappropriately treated the patient with Protozide, iodoquinol, Atabrine, nystatin, carbarsone, metronidazole, tetracycline, and Humatin, and with rectal ozone therapy, all without an adequate basis for the treatment. The Committee also found that the Respondent failed to maintain adequate medical records for this patient.

The Hearing Committee found that between January, 1988 and June, 1990, the Respondent treated Patient D, a 53 year old male, for numerous complaints of diarrhea. Again, the Hearing Committee found that the Respondent's medical history and physical examination of the patient were inadequate, and that he failed to obtain a CBC with differential and complete defecated stool sample examination. The Respondent used the rectal swab technique to diagnose the patient as suffering from *Entamoeba histolytica*. The Respondent failed to make and/or keep fixed and stained slides of the parasitology specimens obtained from the patient. The Committee further found that the Respondent inappropriately treated Patient C with a variety of drugs, including metronidazole, iodoquinol, carbarsone, tetracycline, Protozide and Intestinalis.

The Hearing Committee further found that the Respondent treated Patient E, a 34 year old male, on three occasions between August 2, 1987 and March 7, 1988. The Committee found that the

Respondent failed to perform a CBC with differential and a complete defecated stool sample examination. The Respondent used the rectal swab technique to diagnose Patient E as suffering from *Entamoeba histolytica* without an adequate basis, and inappropriately treated the patient with metronidazole and tetracycline. Again, the Respondent failed to make and/or keep fixed and stained slides of parasitology specimens taken from the patient.

The Hearing Committee found that the Respondent treated Patient F, a 35 year old female, during the period from July, 1987 through May, 1988. The Respondent failed to perform a complete defecated stool sample examination. He used the rectal swab technique to diagnose the patient as suffering from *Entamoeba histolytica* and *Giardia lamblia* without an adequate basis for the diagnosis. The Committee further found that he then inappropriately treated Patient F with carbarsone, metronidazole, Protozide, Atabrine and iodoquinol.

The Hearing Committee further found that the Respondent treated Patient G, between April, 1990 and June, 1990. The Respondent failed to perform an adequate physical examination and did not make and/or keep fixed and stained slides of parasitology specimens taken from the patient. The Committee also found that the Respondent failed to maintain an adequate record for the patient, in that he failed to note whether there were cysts or trophozoites present in the parasitology specimens, and failed to include reports of laboratory tests and specific dosages of drugs prescribed.

The Committee voted to suspend the Respondent's license to practice medicine in New York State until the Respondent completes a two-month full-time educational and training program in clinical and laboratory parasitology at a site and under the direct supervision of someone approved by the Office of Professional Medical Conduct. The Committee found that the Respondent's practice consists primarily of treating patients with intestinal disorders, and that the Respondent is using a scientifically unproven test in making his diagnoses. The Hearing Committee determined that the Respondent requires further training and education in the field of parasitology before continuing his practice.

REQUEST FOR REVIEW

PETITIONER: On his appeal, the Petitioner has asked that the Review Board revoke the Respondent's medical license. The Petitioner argues that the penalty imposed by the Hearing Committee is inconsistent with the findings of fact and conclusions of the Committee, and is wholly inappropriate. The Petitioner argues that the Hearing Committee found negligence and incompetence in all major aspects of the Respondent's practice, including the areas of history taking, physical examination, diagnostic studies, diagnosis, treatment and record keeping.

The Petitioner further argues that the Respondent is not a suitable candidate for re-training. Not only is the record clear that the Respondent is using an inadequate test in

diagnosing his patients (the rectal swab technique), it is also clear that he has a strong philosophical commitment to his substandard methods and adamantly rejects well-established minimum standards of parasitology. Thus, the Petitioner argues that the Respondent lacks the insight and motivation required to benefit from re-training.

The Petitioner further notes that the Respondent is not board certified in infectious diseases or internal medicine, has never completed a residency or fellowship in infectious diseases, and has received only minimal postgraduate training in parasitology. The Petitioner argues that given the Respondent's lack of prior training in parasitology, his attitude of disdain for accepted standards of practice regarding parasitology, and his unswerving commitment to his own unproven theories, there is no reason to expect that a two month course of education and training in parasitology would be adequate, nor would the information provided be incorporated into the Respondent's practice. Revocation is the only penalty that will insure that the Respondent does not place patients at risk by subjecting them to his unproven and dangerous diagnostic and treatment practices.

RESPONDENT: The Respondent argues that the entire basis of the charges made against him is the unfounded and unsupported assertion that his rectal swab technique yields an inaccurate diagnosis. He further argues that the Petitioner failed to prove by competent, rational and substantial evidence that the rectal swab technique yields inaccurate, undependable or false

diagnostic results. He claims that the opinions of the Petitioner's expert, Herbert B. Tanowitz, M.D., were not based upon any factual foundation. Dr. Tanowitz has no personal experience with the technique, has read no literature regarding it, and has not tested the method. The Respondent also argues that neither Dr. Tanowitz nor the Hearing Committee understood the rectal swab technique.

The Respondent also argues that there is no evidence to suggest that there is any regulation requiring the Respondent to keep fixed and stained slides of his procedures, and that his records were not inadequate.

In an answering brief, the Petitioner argues that the Respondent's brief and attached papers are merely a rehash and duplication of the factual arguments made by the Respondent to the Hearing Committee. He notes that the parties are bound by the findings of fact made by the Hearing Committee, since the Review Board has no power to overturn them. The Petitioner also argues that, contrary to the assertions of the Respondent, Dr. Tanowitz is a well-qualified parasitologist, with extensive laboratory experience. He further argues the Dr. Tanowitz based his opinions on his own clinical practice, the applicable literature, and 25 years of experience of the Albert Einstein College of Medicine Parasitology Laboratory.

The Petitioner also argues that Dr. Tanowitz considered the rectal swab technique in its entirety. He further argues that the Respondent's assertion that there is no evidence to suggest that he was required to keep fixed and stained slides

ignores the extensive testimony that established this as the standard of care.

REVIEW BOARD DETERMINATION

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

The Review Board votes 5-0 to sustain the Hearing Committee's Determination that the Respondent was guilty of negligence and incompetence on more than one occasion, ordering excessive treatment and failure to maintain records. This Determination was consistent with the Committee's factual findings.

The Review Board rejects the Respondent's contention that the Petitioner failed to prove that the rectal swab technique is inaccurate and undependable, and that the Petitioner's expert witness did not have a factual foundation for his opinions. The Review Board's scope of review is limited to determining whether the evidence which the Hearing Committee cites supports the findings of fact and conclusions of law, and whether these findings are consistent with the determination that the Respondent is guilty of professional misconduct. The Hearing Committee, as the finder of fact, has the responsibility to weigh the conflicting evidence. It is not error for the Hearing Committee to find testimony by one witness to more credible than conflicting evidence from another.

In this case, the Hearing Committee found Dr. Tanowitz - a physician board certified in internal medicine and infectious diseases, and a professor of medicine and pathology at Albert

Einstein College of Medicine - well qualified to render opinions on the propriety of the Respondent's medical care and treatment, as well as the applicable standards of care. They found his testimony credible and sufficient to discredit the claims of the Respondent, who presented no independent expert testimony on his own behalf.

The Review Board votes 5-0 to overturn the Committee's Determination to suspend the Respondent's medical license pending completion of a two-month full time educational and training program in clinical and laboratory parasitology. This sanction is not consistent with the Committee's findings and is not appropriate for the serious misconduct which the Respondent committed. The Review Board votes to revoke the Respondent's license to practice medicine in New York State.

The Hearing Committee found deficiencies in virtually all aspects of the Respondent's medical care and treatment of the patients presented in this case. Moreover, the Respondent is rigidly connected to an unsafe and ineffective diagnostic technique which places his patients at risk. He has shown himself to be unwilling to change, even in the face of the solid, scientific evidence presented by Dr. Tanowitz. The Respondent clearly lacks the insight and motivation necessary to make any re-education requirement successful.

The Review Board has the authority to substitute its judgement for that of the Hearing Committee with regard to the

penalty to be imposed in a professional misconduct proceeding.²
Under the circumstances of this case, revocation is the only
sanction which will adequately protect the public from the
Respondent's ineffective and unsafe practices.

²Matter of Spartalis 205 AD2d 940, 613 NYS 2d 759 (Third
Dept. 1994)

ORDER

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

1. The Review Board SUSTAINS the Hearing Committee's March 19, 1996 Determination finding the Respondent guilty of professional misconduct.
2. The Review Board OVERTURNS the Hearing Committee's Determination suspending the Respondent's medical license pending completion of a two month full-time education and training program in clinical and laboratory parasitology.
3. The Review Board VOTES 5-0 to revoke the Respondent's license to practice medicine in New York State.

SUMNER SHAPIRO

ROBERT M. BRIBER

WINSTON S. PRICE, M.D.

EDWARD SINNOTT, M.D.

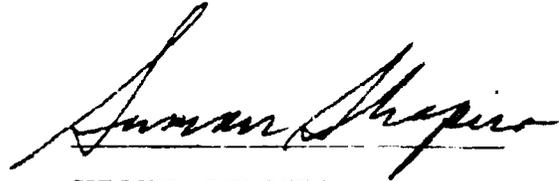
WILLIAM A. STEWART, M.D.

IN THE MATTER OF LOUIS PARRISH, 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. Parrish.

DATED: Delmar, New York

July 3, 1996

A handwritten signature in cursive script that reads "Sumner Shapiro". The signature is written in dark ink and is positioned above a horizontal line.

SUMNER SHAPIRO

IN THE MATTER OF LOUIS PARRISH, 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. Parrish.

DATED: Brooklyn, New York

JUNE 28, 1996



WINSTON S. PRICE, M.D.

IN THE MATTER OF LOUIS PARRISH, 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. Parrish.

DATED: Roslyn, New York

June 28, 1996

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

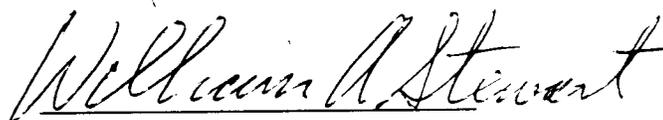
EDWARD C. SINNOTT, M.D.

IN THE MATTER OF LOUIS PARRISH, 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. Parrish.

DATED: Syracuse, New York

1 July, 1996

A handwritten signature in cursive script that reads "William A. Stewart". The signature is written in dark ink and is positioned above the printed name.

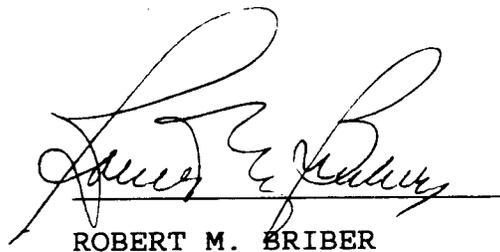
WILLIAM A. STEWART, M.D.

IN THE MATTER OF LOUIS PARRISH, 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. Parrish.

DATED: Albany, New York

July 19, 1996



ROBERT M. BRIBER