



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Dennis P. Whalen
Executive Deputy Commissioner

March 8, 1999

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Steven J. Masef, Esq.
NYS Department of Health
5 Penn Plaza – Sixth Floor
New York, New York 10001

Satyewara K. Sarode, M.D.
1445 US Highway 130
Great Neck, New York 11021

RE: In the Matter of Satyewara Krishnappa Sarode, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 98-216) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
Hedley Park Place
433 River Street-Fourth Floor
Troy, New York 12180

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,

Handwritten signature of Tyrone T. Butler in black ink, including the initials 'nm' at the end.

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

**Satyewara Krishnappa Sarode, M.D.
(Respondent)**

**A proceeding to review a Determination by a Hearing
Committee (Committee) from the Board for
Professional Medical Conduct (BPMC)**

COPY

**Administrative Review Board (ARB)
Determination and Order No. 98- 216**

**Before ARB Members Grossman, Lynch, Shapiro, Price and Briber
Administrative Law Judge James F. Horan drafted the Determination**

**For the Department of Health (Petitioner): Steven Masef
For the Respondent: Pro Se**

In this proceeding pursuant to N.Y. Pub. Health Law § 230-c (4)(a)(McKinney's Supp. 1999), the ARB considers the penalty to impose against the Respondent's New York Medical License (License), following the Respondent's entrance into a Consent Agreement admitting professional misconduct in New Jersey. A BPMC Committee determined that the Respondent's New Jersey conduct would constitute misconduct in New York and voted to revoke the Respondent's License. The Respondent now asks the ARB to modify the revocation order, because New Jersey settled the action against the Respondent for a much less severe penalty and because the Respondent explained the reasons behind his New Jersey misconduct. After reviewing the record and arguments by both parties, the ARB holds that the Respondent practiced medicine fraudulently in New Jersey and we affirm the Committee's Determination that such fraudulent conduct provides grounds for revoking the Respondent's License in New York.

Committee Determination on the Charges

The Petitioner commenced the proceeding by filing charges with BPMC alleging that the Respondent violated N. Y. Educ. Law § 6530(9)(d) (McKinney Supp. 1999) because:

- the duly authorized disciplinary agency from another state took disciplinary action against the Respondent's medical license in that state,
- for conduct that would constitute misconduct if the Respondent had engaged in such activity in New York.

The Petitioner's Statement of Charges [Petitioner Exhibit 1] alleged that the Respondent committed misconduct in New Jersey that would constitute misconduct if committed in New York, under the following categories:

- practicing medicine fraudulently, a violation under N. Y. Educ. Law § 6530(2) (McKinney Supp. 1999);
- failing to provide information mandated by the Public Health Law, a violation under N. Y. Educ. Law § 6530(14) (McKinney Supp. 1999);
- committing conduct in medical practice that evidences moral unfitness, a violation under N. Y. Educ. Law § 6530(20) (McKinney Supp. 1999); and,
- willfully making or filing a false report, a violation under N. Y. Educ. Law § 6530(32) (McKinney Supp. 1999):

An expedited hearing (Direct Referral Proceeding) ensued pursuant to N.Y. Pub. Health Law § 230(10)(p)(McKinney Supp. 1998), before a BPMC Committee, who rendered the Determination which the ARB now reviews. In such a Direct Referral Proceeding, the statute limits the Committee to determining the nature and severity for the penalty to impose against the licensee, see In the Matter of Wolkoff v. Chassin, 89 N.Y.2d 250 (1996).

The Committee determined that the Respondent entered into a Consent Order [Petitioner Exhibit 3] with the New Jersey State Board of Medical Examiners (New Jersey Board). In that

Consent Order, the New Jersey Board found that the Respondent made three material misrepresentations on his application for privileges at St. Peter's Hospital in New Jersey by:

1. failing to disclose material information concerning the Respondent's participation in a residency training program at Sinai Hospital in Detroit, Michigan;
2. failing to disclose that St. Vincent's Hospital in Staten Island had denied the Respondent privileges; and,
3. listing falsely an affiliation with Robert Wood Johnson Hospital, when the Respondent held no such affiliation.

The New Jersey Board concluded that such conduct provided cause for a disciplinary action against the Respondent under N.J.S.A. § 45:1-21(b), a statute that allows the New Jersey Board to take action against a licensee who engages in dishonesty, fraud, deception, misrepresentation, false promise or false pretense. To resolve the matter without the need for formal proceedings, the Respondent consented to an Order in which the New Jersey Board reprimanded the Respondent for the omissions or misstatements and assessed the Respondent a Twenty Five Hundred Dollar (\$2500.00) civil penalty.

The Committee determined that the Respondent's New Jersey conduct, if committed in New York, would amount to practicing fraudulently, violating the provisions at N. Y. Pub. Health Law § 2805-k (McKinney Supp. 1999) concerning applications for hospital privileges, engaging in conduct that evidences moral unfitness and willfully making or filing a false report. The Committee characterized the Respondent's fraudulent conduct as serious, concluded that the Respondent understood the Consent Order and found that the Respondent failed to provide any evidence to refute the findings in the Consent Order. The Committee determined that the

Respondent's conduct demonstrated that he lacks the integrity necessary to practice medicine and voted to revoke the Respondent's License.

Review History and Issues

The Committee rendered their Determination on September 17, 1998. Due to an error in mailing the Determination, the Respondent only received the Committee's Determination on December 28, 1998. This proceeding commenced on January 15, 1999, when the ARB received the Respondent's Notice requesting a Review. The record for review contained the Committee's Determination, the hearing record, the Respondent's brief and the Petitioner's reply brief. The record closed when the ARB received the reply brief on February 17, 1999.

The Respondent requested that the ARB rescind the Committee's Determination because New Jersey settled the matter once and for all. He stated that he would like to keep his New York License due to his proximity to this State. The Respondent attached a statement to his letter-brief, in which he argued that the misrepresentation concerning Robert Wood Johnson Hospital resulted from a typographical error. That statement also claimed that the Respondent omitted reference to the St. Peter's Staten Island privileges denial, at the urging from his Department Chairman. The Respondent's attachment indicated that he informed St. Peter's New Jersey about the denial verbally, after submitting the written application. In addition, the attachment claimed that the Respondent informed St. Peter's New Jersey verbally about the circumstances surrounding the Sinai Hospital fellowship.

The Petitioner argues that the Respondent's brief cites to no basis in fact to overturn the Committee's Determination and argues that the Respondent improperly submitted an attachment

with his letter–brief from outside the hearing record. The Petitioner urges the ARB to affirm the Committee’s Determination.

Determination

All ARB Members participated in this case, considered the record and considered the parties’ briefs. We affirm the Committee’s Determination that the Respondent’s conduct in New Jersey amounted to misconduct in New York and we affirm the Committee’s Determination to revoke the Respondent’s License.

The Respondent signed a Consent Order in which the New Jersey Board found that the Respondent made material misrepresentations or omissions in his application to St. Peter’s New Jersey. That Consent Order provided that the Respondent’s conduct violated a New Jersey statute that prohibited fraud, dishonesty, deception, misrepresentation, false promise or false pretense in medical practice. The Respondent argued to the ARB that he had cleared up those misrepresentations or omissions in meetings with St. Peter’s. The Respondent failed, however, to offer any evidence other than his own claims to support that argument. We note that the New Jersey Consent Order stated that St. Peter’s New Jersey had reported the Respondent for submitting an application containing omissions and misstatements. That action by St. Peter’s indicates that the Hospital found the Respondent’s verbal explanations unconvincing. The New Jersey Board also heard the Respondent’s explanations and still found that the Respondent’s conduct would violate the New Jersey statute’s prohibitions on fraud, misrepresentation, dishonesty or deception in medical practice.

We infer from the Respondent’s conduct that he misrepresented or omitted information on the St. Peter’s New Jersey Application, with the intent to deceive the Hospital from learning information that might have damaged the Respondent’s chances to obtain privileges at the Hospital. Such conduct, if committed in New York, would constitute practicing fraudulently,

engaging in conduct that evidences moral unfitnes, willfully filing a false report and violating the Public Health Law provisions on making truthful applications for hospital privileges.

The Respondent's New Jersey conduct demonstrates that he lacks integrity. A physician must deal truthfully with his patients, with other physicians, with the credentialing staff at health care facilities, with government regulators and with third party payers. The credentialing process at health care facilities plays a vital role in quality assurance and in ensuring patient protection. Facilities must rely on physicians to answer credentialing applications fully and truthfully, so the facilities can evaluate whether a physician can provide safe and effective treatment to the facilities' patients.

The Respondent made repeated omissions and misrepresentations on his St. Peter's New Jersey application. We have inferred that he made those misrepresentations and omissions to deceive St. Peter's about facts that may have caused the hospital concern about the Respondent's ability to practice safely and effectively. Such deception by the Respondent compromised St. Peter's efforts at patient protection and demonstrated the Respondent's untrustworthiness. As no retraining or other penalty can teach the Respondent integrity, we conclude that the Respondent poses a continuing risk to repeat his fraudulent conduct, if we allowed him to retain a New York medical license. We also find no mitigating circumstances in the arguments that the Respondent raised in his letter-brief. The Respondent emphasized that New Jersey merely imposed a fine against him for his misconduct in that state. The ARB and BPMC have an obligation to provide protection to patients in this State. That obligation may require that we impose a harsher penalty in Direct Referral cases than the state where the misconduct occurred, if we find a more harsh penalty necessary to protect patients in New York. We vote 5-0, therefore, to affirm the Committee's Determination to revoke the Respondent's License.

ORDER

NOW, with this Determination as our basis, the ARB renders the following **ORDER**:

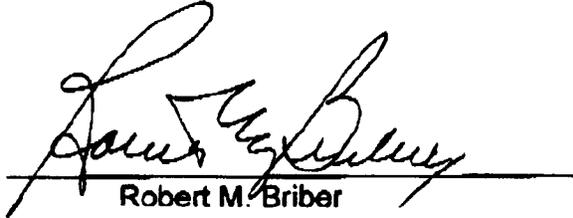
1. The ARB **SUSTAINS** the Committee's Determination that the Respondent committed professional misconduct.
2. The ARB **SUSTAINS** the Committee's Determination revoking the Respondent's License to practice medicine in New York State.

**Robert M. Briber
Sumner Shapiro
Winston S. Price, M.D.
Stanley L. Grossman, M.D.
Therese G. Lynch, M.D.**

In the Matter of Satyeswara Krishnappa Sarode, M.D.

Robert M. Briber, an ARB Member, concurs in the Determination and Order in the Matter of Dr. Sarode.

Dated: March 4, 1999



Robert M. Briber

In the Matter of Satyeswara Krishnappa Sarode, M.D.

Sumner Shapiro, an ARB Member, concurs in the
Determination and Order in the Matter of Dr. Sarode.

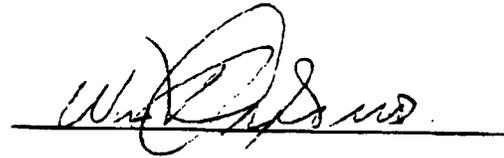
Dated: March 4, 1999


Sumner Shapiro

In the Matter of Satveswara Krishnappa Sarode, M.D.

Winston S. Price, M.D., an ARB Member concurs in the Determination and Order in the Matter of Dr. Sarode.

Dated: March 3, 1999

A handwritten signature in cursive script, appearing to read "Winston S. Price", is written over a horizontal line.

Winston S. Price, M.D.

In the Matter of Satyeswara Krishnappa Sarode, M.D.

Stanley L. Grossman, an ARB Member concurs in the Determination and Order in the
Matter of Dr. Sarode.

Dated: March 8, 1999

Stanley L. Grossman M.D.

Stanley L Grossman, M.D.

In the Matter of Satyeswara Krishnappa Sarode, M.D.

Therese G. Lynch, M.D., an ARB Member concurs in the Determination and Order in the Matter of Dr. Sarode.

Dated: March 5, 1999

Therese G. Lynch M.D.

Therese G. Lynch, M.D.