



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

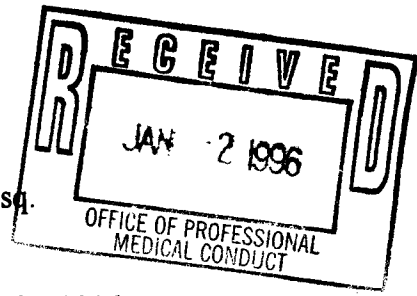
Karen Schimke
Executive Deputy Commissioner

December 27, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dianne Abeloff, Esq.
NYS Dept. of Health
5 Penn Plaza-Sixth Floor
New York, New York 10001

Jeffrey M. Rubin, Esq.
Rubin & Shang
9 East 40th Street
New York, New York 10016



Bing Huei Tang, M.D.
182-01 Union Turnpike
Flushing, New York 11366

RE: In the Matter of Bing Huei Tang, M.D.

Effective Date: 01/03/96

Dear Ms. Abeloff, Mr. Rubin and Dr. Tang :

Enclosed please find the Determination and Order (No. 95-226) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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:

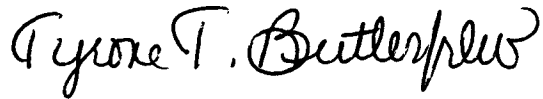
Office of Professional Medical Conduct
New York State Department of Health
Empire State Plaza
Corning Tower, Room 438
Albany, New York 12237

NEW YORK STATE DEPARTMENT OF HEALTH 29

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 black ink that reads "Tyrone T. Butler". The signature is written in a cursive style with a large, stylized initial "T".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:

Enclosure

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

IN THE MATTER
OF
BING HUEI TANG, M.D.

ADMINISTRATIVE
REVIEW BOARD
DECISION AND
ORDER NUMBER
ARB NO. 95-226

A quorum of the Administrative Review Board for Professional Medical Conduct¹ (hereinafter the "Review Board"), consisting of **ROBERT M. BRIBER, SUMNER SHAPIRO, EDWARD C. SINNOTT, M.D.**² and **WILLIAM A. STEWART, M.D.** held deliberations on December 1, 1995 to review the Hearing Committee on Professional Medical Conduct's (Hearing Committee) September 15, 1995 Determination finding Dr. Bing Huei Tang (Respondent) guilty of professional misconduct. Both the Respondent and the Office of Professional Medical Conduct (Petitioner) requested the Review through a Notice, which the Review Board received on September 29, 1995. James F. Horan, Esq. served as Administrative Officer to the Review Board. Dianne Abeloff, Esq. filed a brief for the Petitioner, which the Review Board received on October 13, 1995. Jeffrey M. Rubin, Esq. filed a brief for the Respondent, which the Review Board received on October 30, 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
- whether or not the penalty is appropriate and within the scope of penalties permitted by PHL §230-a.

¹Dr. William Price did not participate in the deliberations.

²Dr. Sinnott participated in the deliberations by telephone.

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 brought this case pursuant to Public Health Law Section 230(10)(p) and Education Law Section 6530(9)(a)(i), which provide an expedited hearing in cases in which professional misconduct charges against a Respondent 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 State. In this case, the Petitioner alleged that the Respondent had been convicted of a crime, Falsifying Business Records in the First Degree, in the State of 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 case found that the Petitioner had met its burden of proof in establishing that the Respondent had entered a guilty plea, on April 12, 1994, in New York State Supreme Court for Kings County, to Falsifying Business Records in the First Degree, in violation of New York Penal Law §175.10, a Class E Felony. The Committee found that the Respondent's conviction arose from the Respondent's actions in concert with another, when with intent to defraud, they made or caused a false entry in the business records of Office of Bay Imaging Center, in the form of a CT Scan, and that their intent to defraud included an intent to commit another crime, insurance fraud, or to aid or conceal the commission thereof. The Supreme Court sentenced the Respondent to five years probation, fined the Respondent Twenty Five Thousand Dollars (\$25,000.00) and ordered that the Respondent perform three hundred hours community service.

The Hearing Committee found that criminal insurance fraud has a serious impact on the health care system in New York, but found several factors in the Respondent's case that precluded revocation. The Committee found that the Respondent had already been punished significantly due to the Supreme Court's sentence and due to problems in his family which occurred at the time criminal charges were pending against the Respondent. The Committee found that a penalty consisting of partial suspension with probation would protect the public interest and deter the Respondent and others from committing insurance fraud or other such acts of professional misconduct in the future. The Committee voted to suspend the Respondent's license for three years, stayed two years of the suspension and placed the Respondent on probation.

REQUESTS FOR REVIEW

The Petitioner alleges that the Hearing Committee's penalty is too light given the severity of the Respondent's misconduct and argues that the Review Board must send a message to the medical community that falsifying medical records is an abuse of one's medical license that can not be condoned. The Petitioner argues that one year of actual suspension is not a significant enough sanction to relay this message.

The Respondent contends that the Committee's Determination to suspend the Respondent's license in this case is an appropriate sanction given the extenuating circumstances in this case. The Respondent notes that although the Petitioner has argued that one year's suspension is an inappropriate sanction, that the Petitioner has not requested that the Review Board revoke the Respondent's license. The Respondent contends that the Hearing Committee properly considered the mitigating circumstances in this case, which included the dissolution of the Respondent's marriage and the mental problems which the Respondent's son experienced. The Respondent requests, therefore, that the Review Board defer to the Hearing Committee's Determination and impose a sanction no greater than the suspension of the Respondent's license.

REVIEW BOARD DETERMINATION

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

The Review Board votes to sustain the Hearing Committee's Determination finding the Respondent guilty of professional misconduct. The Committee's Determination is consistent with their findings that the Respondent is guilty of Falsifying Business Records in the First Degree, a crime under the New York Penal Law.

The Review Board votes to overrule the Hearing Committee's penalty suspending the Respondent's license for one year and placing the Respondent on probation for two years following the suspension. The Review Board finds this penalty is inappropriate in light of the Respondent's criminal conviction. The Review Board votes 4-0 to revoke the Respondent's license to practice medicine in New York State.

The Respondent is a convicted felon who betrayed the public trust placed in the medical profession and who used his medical license in furtherance of a criminal scheme. Revocation is the appropriate penalty for a physician who betrays the public trust and who schemes to cheat the Medicaid system, Matter of Supris v. Administrative Review Board for Professional Medical Conduct, 203 AD 2d 670, 610 NYS 2d 373 (Third Dept. 1994).

The Review Board finds that there are no mitigating factors in this case that warrant a penalty less severe than revocation. The Court's sentence against the Respondent, public service, probation and a fine, was by no means heavy. The Board does not feel that the Court's sentence alone will serve as much of a deterrent to future misconduct by the Respondent or others. The problems with the Respondent's family occurred after his criminal indictment, they had no part in causing the Respondent's fraudulent actions and do not excuse his conduct.

ORDER

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

1. The Review Board **SUSTAINS** the Hearing Committee's September 15, 1995 Determination finding Dr. Bing Huei Tang guilty of professional misconduct.

2. The Review Board **OVERRULES** the Hearing Committee's penalty.

3. The Review Board **REVOKES** the Respondent's license to practice medicine in New York State.

ROBERT M. BRIBER

SUMNER SHAPIRO

EDWARD SINNOTT, M.D.

WILLIAM A. STEWART, M.D.

IN THE MATTER OF BING HUEI TANG, 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. Tang.

Schneekloth
DATED: Albany, New York
12/13, 1995

Robert M. Briber
ROBERT M. BRIBER

IN THE MATTER OF BING HUEI TANG, 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. Tang.

DATED: Roslyn, New York

December 14, 1995

A handwritten signature in black ink, appearing to read "Edward C. Sinnott", written over a horizontal line. The signature is stylized and includes a date "12/14/95" at the end.

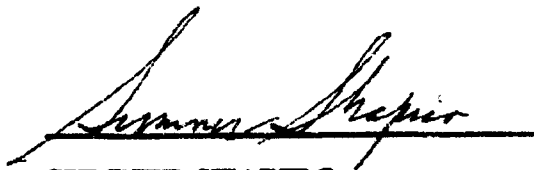
EDWARD C. SINNOTT, M.D.

IN THE MATTER OF BING HUEI TANG, 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. Tang.

DATED: Delmar, New York

DEC 12, 1995



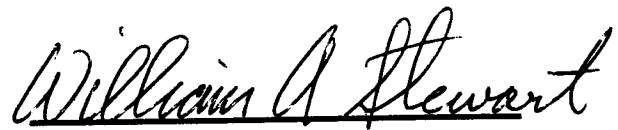
SUMNER SHAPIRO

IN THE MATTER OF BING HUEI TANG, 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. Tang.

DATED: Syracuse, New York

11 Dec, 1995

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.