

PRESENT:  
HONORABLE Richard C. Wesley  
COURT OF APPEALS OF THE STATE OF NEW YORK

RECEIVED  
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NEW YORK STATE  
COURT OF APPEALS

In the Matter of OSKAR WEG, M.D.,

Petitioner-Appellant,

For a Judgment/Order pursuant to Article 78 of the Civil Practice Law and Rules,

-against-

BARBARA DeBUONO, Commissioner, New York State Department of Health, and STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT, New York State Department of Health,

Respondents-Respondents.

**ORDER TO SHOW CAUSE FOR LEAVE TO APPEAL, STAY PENDING APPEAL, AND INTERIM STAY**

Appellate Division,  
Third Department,  
Case No.: 83446  
(Proceeding 1)

In the Matter of OSKAR WEG, M.D.,

Petitioner-Appellant,

For a Judgment/Order pursuant to Article 78 of the Civil Practice Law and Rules,

-against-

ANTONIA C. NOVELLO, M.D., M.P.H., Commissioner, New York State Department of Health, the NEW YORK STATE DEPARTMENT OF HEALTH, and the ADMINISTRATIVE REVIEW BOARD FOR PROFESSIONAL MEDICAL CONDUCT, State Board for Professional Medical Conduct, New York State Department of Health,

Respondents-Respondents.

Appellate Division,  
Third Department,  
Case No.: 85512  
(Proceeding 2)

**PUBLIC**

UPON the annexed Statement in Support and Exhibits, upon the accompanying briefs and record filed in the Appellate Division, Third Department, in this review proceeding pursuant to N.Y. Pub. Health Law § 230-c(5) (McKinney 1999), upon all papers and prior proceedings heretofore had herein, and upon due consideration, it is hereby:

**ORDERED** that Respondents-Respondents **ANTONIA C. NOVELLO, M.D., M.P.H.**,  
the **NEW YORK STATE DEPARTMENT OF HEALTH**, and the **ADMINISTRATIVE**  
**REVIEW BOARD FOR PROFESSIONAL MEDICAL CONDUCT** show cause on the

*MO* 16 day of March, 2000, at 2:00 o'clock in the afternoon of that day, or as  
soon thereafter as counsel may be heard, why an Order should not be issued by this Court:

- a. granting Petitioner-Appellant leave to appeal to the Court of Appeals from the Memorandum and Judgment of the Appellate Division, Third Department, which confirmed the determination of the Administrative Review Board for Professional Medical Conduct, and which dismissed the Petitions (herein attached as EXHIBIT "A"); and
- b. granting a stay of enforcement of the Memorandum and Judgment of the Appellate Division, Third Department, pending the determination of the appeal to the Court of Appeals; and
- c. granting an interim stay of enforcement of the Memorandum and Judgment of the Appellate Division, Third Department, pending the determination of the instant Motion by Order to Show Cause.

**IT IS FURTHER ORDERED** that, pending the determination of the instant Motion brought on by this Order to Show Cause, Respondents-Respondents are hereby stayed and enjoined from enforcing the Memorandum and Judgment, and from enforcing the underlying determination of the Administrative Review Board for Professional Medical Conduct.

**AND SUFFICIENT CAUSE APPEARING THEREFORE**, let service by overnight express mail of a copy of this Order, together with the papers on which it is based, upon:

- a. **Raymond Foley, Esq.**, Assistant Attorney General, Office of the Attorney General, 120 Broadway, New York, New York, attorneys for Respondents-Respondents **ANTONIA C. NOVELLO, M.D., M.P.H.**, the **NEW YORK STATE DEPARTMENT OF HEALTH**, and the

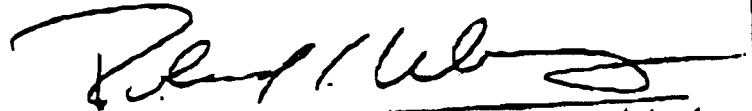
**ADMINISTRATIVE REVIEW BOARD FOR PROFESSIONAL  
MEDICAL CONDUCT; and**

- b. **Office of Legal Counsel, New York State Department of Health,  
Corning Tower, The Governor Nelson A. Rockefeller Empire State  
Plaza, Albany, New York.**

*rw* on or before the 14 day of March 2000 be deemed good and sufficient  
service.

Dated: 10 March 2000

ENTER:



Justice Associate Judge Richard C. Wesley  
Court of Appeals



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H.  
*Commissioner*

**PUBLIC**

Dennis P. Whalen  
*Executive Deputy Commissioner*  
August 19, 1999

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

William Lynch, Esq.  
NYS Department of Health  
Corning Tower Room 2438  
Empire State Plaza  
Albany, New York 12237

Nathan L. Dembin, Esq.  
Nathan L. Dembin & Associates PC  
225 Broadway, Suite 1400  
New York, New York 10007

Oskar Weg, M.D.  
110-45 Queens Boulevard  
Suite 115  
Forest Hills, New York 11375

**RE: In the Matter of Oskar Weg, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 98-247) 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.

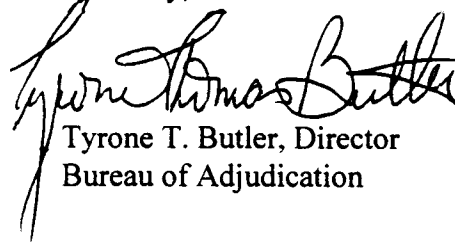
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified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

A handwritten signature in black ink, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial 'T' and 'B'.

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:mla  
Enclosure

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

**In the Matter of**

**Oskar Weg, MD. (Respondent)**

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

**COPY**

**Administrative Review Board (ARB)**

**Determination and Order No. 98-247**

**Before ARB Members Grossman, Lynch<sup>1</sup>, Shapiro, Price and Briber  
Administrative Law Judge Larry G. Storch drafted the Determination**

**For the Department of Health (Petitioner):  
For the Respondent:**

**William Lynch, Esq.  
Edward J. Yun, Esq.**

After a hearing below, a BPMC Committee determined that the Respondent committed professional misconduct by failing to provide access to patient information as required by law, by being found guilty of violating a state statute, and of practicing the profession fraudulently. The Committee voted to suspend the Respondent's license to practice medicine in New York State, stay the suspension, place the Respondent on probation for a term of not less than five years, and imposed a civil penalty in the amount of \$50,000. In this proceeding pursuant to N.Y. Pub. Health Law § 230-c (4)(a)(McKinney's Supp. 1999), the Petitioner asks the ARB to modify the penalty imposed by the Committee to provide for a period of actual suspension or revocation. After considering the record from the hearing and briefs from both parties, we overturn the Committee's Determination on the charge of fraud, and modify the penalty imposed to provide for a thirty day period of actual suspension followed by probation for a term of five years, and impose an \$8,000 civil penalty.

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<sup>1</sup> Dr. Lynch did not participate in the deliberations on this case.

### **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 (McKinney Supp. 1999) by committing professional misconduct under the following specifications:

- having been found guilty in an adjudicatory proceeding of violating a state or federal statute or regulation, pursuant to a final decision or determination, and when no appeal is pending, or after resolution of the proceeding by stipulation or agreement, and when the violation would constitute professional misconduct, in violation of N.Y. Educ. Law §6530(9)(c);
- failing to provide access by qualified persons to patient information in accordance with N.Y. Public Health Law § 18, in violation of N.Y. Educ. Law § 6530(40); and
- practicing the profession fraudulently, in violation of N.Y. Educ. Law § 6530(2).

The Committee found that by a Stipulation of Settlement and Order effective February 1, 1995 Respondent was found guilty of violating N.Y. Public Health Law § 18 by failing to provide copies of the medical records of Patients A through D. The Committee further found that respondent failed to provide copies of the medical records of Patients I, J, K and L<sup>2</sup>. The Committee also found that the Respondent made a false entry in the medical record for Patient L alleging that the patient's father was responsible for any untoward outcomes because of his failure to bring the child to the office, and that the father wanted the Respondent to change the medical record. The Committee concluded that this constituted fraud.

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<sup>2</sup> Charges involving Patients E through H were withdrawn by Petitioner.

The Committee determined that the Respondent had shown a pattern of contempt for the law; contempt for the rules of medical practice and contempt for the Committee. The Committee voted to suspend the Respondent's license, stay the suspension and place the Respondent on probation for a term of not less than five years. The Committee further determined that the stay of suspension should be permanently lifted upon receipt of any complaint against the Respondent concerning Public Health Law § 18 and any other statutes, rules or regulations governing the release of patient records. The Committee further determined that the stay of suspension should be lifted prior to and as a prerequisite for application of any due process proceedings to which the Respondent would be eligible. Lastly, the Committee voted to impose a \$50,000 civil penalty.

#### **Review History and Issues**

The Committee rendered their Determination on October 14, 1998. This proceeding commenced on November 5, 1998 when the ARB received the Petitioner's Notice requesting a Review. The record for review contained the Committee's Determination, the hearing record, and the briefs submitted by both parties. The record closed when the ARB received the parties' reply briefs on June 16, 1999.

The Petitioner requests that the ARB modify the penalty imposed by the Committee to include a period of actual suspension or revocation. The Petitioner argues that the Committee correctly recognized that the Respondent failed to accept responsibility for his misconduct and/or show capacity for rehabilitation. Although the Committee imposed a significant civil penalty and a suspension, the suspension was stayed in its entirety. The probationary terms envisioned by the Committee would lift the stay upon receipt of a complaint concerning any statute, rule or regulation concerning the release of patient records prior to any due process proceedings.



However, that provision does not provide a mechanism for determining the validity of the complaint that might cause of a lifting of the stay of suspension. Moreover, prior decisions of the ARB dictate that a more significant penalty should be imposed in the instant case.

The Respondent requests that the review by the ARB be dismissed or held in abeyance where the Appellate Division, Third Department, has stayed the proceeding pending review by that Court; dismissed or held in abeyance where the notice of review filed by the Department of Health was untimely and defective; and/or dismissed or held in abeyance until the Appellate Division, Third Department concludes its own review proceeding in the interests of justice, fairness and economy.

The Respondent also argues that the Committee's imposition of a monetary penalty was an abuse of discretion, not supported by the evidence. The Respondent also argues that the Committee imposed the penalty due to his purported acts of contempt and lack of remorse. This was an abuse of discretion because "lack of candor" was not charged in the disciplinary hearing and there was no opportunity to respond to such an allegation.

The Respondent further argues that the penalty imposed by the Committee improperly violated his due process rights because it ordered that the stay of suspension shall be lifted prior to and as a prerequisite for application of any due process proceedings to which he would be eligible. Such a provision is improper and unlawful because of the chilling effect it would have on the Respondent's exercise of his due process rights under the Constitution. The Respondent also notes that the Committee infringed upon his due process rights by ordering that the stay be permanently lifted if merely a complaint is filed against him, irrespective of whether such complaint is valid, unsubstantiated or frivolous.

The Respondent argues that the Committee erred in sustaining the charge of fraudulent practice because there was no finding or evidence of intent to defraud and the making of personal notes did not involve the practice of medicine. He further argues that the Committee erred in finding him in violation of Public Health Law § 18 because he had a good faith basis for denying access to his patients' medical records.

The Respondent further contends that the Stipulation of Settlement and Order entered into by the Department of Health and Respondent regarding violations of Public Health Law § 18 involving Patients A through D precludes the State Board for Professional Medical Conduct from taking any action based upon its findings. He argues that the Settlement Order (Pet. Ex. #11), which discontinued that disciplinary proceeding "with prejudice" bars any claim which the Board might have brought against him.

The Respondent also argues that the Committee improperly relied on statements made by the Respondent's counsel regarding potential witnesses as forming the basis for its' conclusions that the Respondent lacked credibility. The Respondent further argues that the consent order entered into regarding Patients A through D for violations of Section 18 precluded the Board from taking action against him for those violations.

The Respondent argues that the sanction imposed was excessive and unduly harsh, given that his competency and quality of medical care were never called into question. Lastly, the Respondent argues that he was denied his statutory right to a pre-hearing interview pursuant to Public Health Law § 230(10)(a)(iii). The Petitioner did send a notice to Respondent by certified mail. However, the notice was returned to sender as undelivered. Therefore, the Respondent was never notified of the scheduled interview.

In its reply brief the Petitioner contends that contrary to the Respondent's assertion, the Appellate Division has denied his request to stay the ARB proceedings. By Order to Show Cause, the Respondent had only sought and obtained a temporary stay of the enforcement of the Decision and Order. Therefore, the Court's Order annexed to the Respondent's brief did not stay the initial filing the Petitioner's request for review nor the ARB's review. Moreover, the Respondent's false statement in his brief could be viewed as a misunderstanding were it not for the fact that he had then submitted a subsequent Order to Show Cause to the Appellate Division in February, 1999 specifically seeking to enjoin the ARB from assuming jurisdiction and from proceeding or reviewing the determination. By Order dated April 9, 1999, the Appellate Division denied that request. The request for a review by the ARB was filed in a timely manner in that it was submitted within fourteen days of service and receipt of the Determination and Order, in accordance with the instructions in the cover letter from the Bureau of Adjudication which was served on the parties along with the Determination and Order.

Further, Public Health Law § 230-c(5) provides that only a determination of a Committee in which no ARB review has been requested may be reviewed by the Courts. It is clearly preferable for an administrative agency to complete its review of a determination prior to judicial review. Accordingly, the Petitioner argues that the ARB does indeed have the jurisdiction to proceed to a determination on the merits.

The Petitioner further contends that the Respondent's testimony that the note which he wrote in Patient L's medical record was a "personal note" is belied by the fact that he sent it as part of the note to the patient's attorney. Moreover, the note is clearly false because it is directly contradicted by the prior note just above it in the chart. Contrary to the Respondent's assertion in his brief that the uncontroverted evidence was that he believed that he was being threatened by

the patient's father, the Committee determined the his testimony was false and fabricated. Since it is illogical to write a false note to oneself, the Respondent must have intended the false note for others. It can be reasonably inferred from the facts that the Respondent intended to mislead the court in which the attorney for Patient L had instituted an action on behalf of his client. Therefore, the finding of fraud was appropriate.

The Respondent replies that irrespective of any court-ordered stay, the instant review by the ARB should await the pending review and determination by the Court. At the time that the Respondent filed his appeal with the Court, no review before the ARB was pending. As such, irrespective of whether there is any stay, the Court has proper and initial jurisdiction over the instant matter. Moreover, the issue of whether the Department properly sought review by the ARB is before the Appellate Division and must be resolved by the Court prior to the ARB conducting its review. The Respondent also reiterated his arguments that were previously set forth in his initial brief to the ARB.

#### **Determination**

The ARB has considered the hearing record and the parties briefs. We affirm the Committee's Determination on all charges except for the allegation that the Respondent practiced the profession fraudulently by making a false entry into the medical record of Patient L. We overturn the Committee's Determination with regard to the claim of fraud (the Tenth Specification of Professional Misconduct). Further, we vote unanimously to modify the sanction imposed by the Committee. We vote to suspend the Respondent's license to practice medicine for a period of thirty (30) days from the effective date of this Determination and Order, to be followed by a five (5) year term of probation. In addition, we impose a civil penalty in the amount of \$8,000.

**The Judicial Stay:** The Respondent argued that the ARB was precluded from proceeding to a determination on this appeal because the Third Department had issued a stay on further proceedings pending judicial review. This argument was, at best, disingenuous. The Court's December, 1998 Order stayed enforcement of the Hearing Committee's Determination and Order pending further review. The Respondent neglected to note that he subsequently sought a stay of these proceedings, and that by a Decision and Order on Motion dated April 9, 1999, the Court expressly rejected a motion for a stay of further proceedings before the ARB.

The Petitioner submitted its notice of review on November 5, 1999 – within fourteen days following receipt of the Determination and Order. This fell squarely within the timeframe established by the Bureau of Adjudication in the letter transmitting the Determination and Order to the parties. It is thus patently clear that the ARB has jurisdiction to decide this matter.

**The Pre-Hearing Interview:** The Respondent argued that the Committee's Determination and Order must be annulled because the Petitioner failed to provide him with the opportunity for a pre-hearing interview, as required by Public Health Law § 230(10)(a)(iii). The statute does not set forth a required means of providing notice of a scheduled interview. The record at hearing clearly established that the Petitioner twice sent the Respondent notice of the proposed interview by certified mail. Both letters were returned as unclaimed, apparently because the Respondent does not accept certified mail. The Respondent claimed that the failure to follow-up the certified mail with a letter sent by ordinary mail constituted a denial of his right to the interview.

This argument is clearly without merit. The Petitioner made repeated attempts to notify the Respondent of the opportunity for an interview. If he chooses to refuse to accept delivery of certified mail sent on the official letterhead of the agency which regulates the medical profession, he can hardly complain that the agency failed to give him notice. It is not up to the Respondent to dictate the form of notice that is acceptable to him.

**The Fraud Allegation:** The charge of fraud was based solely upon an allegation that the Respondent made an entry in the medical record of Patient L alleging the patient's father and attorney were threatening to report the Respondent to various medical bodies if he did not change notes in the medical record. The note in question does not relate in any fashion to the medical care and treatment of the patient. Rather, the note deals with an extraneous transaction between the Respondent and the Respondent's father. Where the alleged fraud does not concern the practice of medicine but is merely incidental to it, a charge of fraudulent practice under N.Y. Educ. Law § 6530(2) must fail. Klein v. Sobol, 167 A.D. 2d 625 (3<sup>rd</sup> Dept. 1990). Accordingly, we vote to overturn the Committee's Determination on the Tenth Specification of professional misconduct contained in the Statement of Charges.

**The Prior Stipulation of Settlement:** The Department of Health and the Respondent entered into a Stipulation of Settlement and Order which resolved charges that the Respondent violated Public Health Law § 18 by failing to provide copies of medical records to Patients A through D. In that settlement agreement, the Respondent "admitted that his office violated Section 18 of the Public Health Law" as set forth in an attached Statement of Charges. Paragraph 2 of the settlement agreement provides that "the action instituted by said Notice of Hearing and Statement of Charges will be terminated by the Department with prejudice upon the signing of this Stipulation of Settlement and Order by both parties hereto." (Pet. Ex. #11).

The Respondent argued that this settlement agreement precludes the State Board for Professional Medical Conduct from bringing any claim of professional misconduct which could otherwise have been brought. We disagree. The settlement agreement resolved charges involving violations of Public Health Law § 18. The instant proceeding, brought by the State Board for Professional Medical Conduct under the authority of Public Health Law Part 230, involves alleged violations of N.Y. Educ. Law § 6530(9)(c) and § 6530(40). Section 6530(9)(c) expressly authorizes a subsequent finding of professional medical conduct where a licensee has

been found "guilty in an adjudicatory proceeding of violating a state or federal statute or regulation...when the violation would constitute professional misconduct pursuant to this section". Section 6530(40) defines professional misconduct as "failing to provide access by qualified persons to patient information in accordance with the standards set forth in section eighteen of the public health law". As part of the settlement agreement, the Respondent admitted that his office violated § 18 by failing to provide copies of the medical records to the authorized representatives of Patients A through D, and by demanding unreasonable fees for the production of such records. Thus, it is clear that no double punishment issues are presented by the Petitioner's prosecution of the Respondent based upon the settlement agreement and the admissions contained therein. *See, Caselnova v. New York State Department of Health* 235 A.D. 2d 864 (3<sup>rd</sup> Dept. 1997). Accordingly, we uphold the Committee's Determination with regard to the First through Fifth Specifications.

**Patients I through L:** The record developed at the hearing established that the Respondent repeatedly failed to provide the authorized representatives of Patients I through L access to the medical records of his patients. We unanimously voted to uphold the Committee's Determination with regard to the Sixth through Ninth Specifications.

**The Penalty Imposed by the Committee:** Both parties agree that there are serious defects in the sanction imposed upon the Respondent by the Committee. The Committee imposed probation for an indefinite term (not less than five years). Further, the Committee suspended the Respondent, but stayed the suspension with certain conditions. The Committee ordered that the stay of suspension be immediately lifted upon receipt by the Director of the Office for Professional Medical Conduct of any complaint against Respondent concerning Public Health Law § 18, or as a prerequisite for the application of any due process proceedings to which Respondent would be eligible. In addition, a civil penalty in the amount of \$50,000 was imposed.

The imposition of an indefinite period of probation, as well as the conditions providing for immediate lifting of the stay are clearly improper and unenforceable. To mandate that the Respondent's license must be indefinitely suspended as the price for exercising his rights under the Constitution would turn the phrase "due process of law" on its head. The condition that mandates that the stay of suspension be lifted upon mere receipt of a complaint, irrespective of whether such complain is valid, unsubstantiated, or frivolous, is equally repugnant. Accordingly, the ARB voted to overturn the penalty imposed upon the Respondent in its' entirety.

Having overturned the Committee's determination on penalty, we must now fashion a sanction which is appropriate to the misconduct which was found. In doing so, we take into consideration the prior disciplinary history of the Respondent. By a Stipulation of Settlement and Order January 30, 1995, the Respondent admitted violations of Public Health Law § 18 with regard to Patients A through D. A civil penalty in the amount of \$8,000 was imposed, with \$6,000 of the amount held in abeyance, pending compliance with the requirements of § 18 for a period of two years. (Pet. Ex. #11). By a subsequent Order (#MIS-96-12), the Department and the Respondent settled charges of additional violations of § 18. By the terms of this Order, an additional civil penalty in the amount of \$2,000 was imposed, with payment held in abeyance pending future compliance with the law under the terms of the original settlement. Further, the expiration date of the original Order was extended to February 1, 1998. (Administrative Law Judge Ex. #103).

It is apparent that these earlier sanctions were not sufficient to bring the Respondent into compliance with the standards of the profession. It is necessary that the Respondent take the time to realize that he is obligated to comply with all statutes and rules regarding the profession, at all times. Accordingly, the ARB voted to impose a thirty (30) day period of actual suspension, to be followed by probation for a term of five (5) years. The period of actual suspension will send a message to the Respondent that his conduct is not acceptable to the profession. The



period of probation will allow the Petitioner to monitor his future compliance. The complete terms of probation are set forth in Appendix I, which is attached to this Determination and Order and incorporated herein. In addition, the ARB voted to impose a civil penalty in the amount of \$8,000. This equates to a \$2,000 penalty for the Respondent's misconduct with regard to Patients I, J, K and L, respectively.

### **ORDER**

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

1. The ARB **AFFIRMS** the Committee's Determination that the Respondent committed professional misconduct as set forth in the First through Ninth Specifications of the Amended Statement of Charges.
2. The ARB **OVERTURNS** the Committee's Determination that the Respondent committed professional misconduct as set forth in the Tenth Specification of the Amended Statement of Charges.
3. The ARB **MODIFIES** the penalty imposed by the Committee. The Respondent's license to practice medicine in New York State shall be, and hereby is suspended for a period of thirty (30) days from the effective date of this Determination and Order. Thereafter, the Respondent shall be placed on probation for a term of five (5) years. The complete terms of probation are attached to this Determination and Order in Appendix I and incorporated herein. In addition, a civil penalty in the amount of \$8,000 shall be, and hereby is imposed upon the Respondent. This penalty shall be forwarded to the New York State Department of Health, Bureau of Accounts Management, Corning Tower Building, Room 1245, Empire State Plaza, Albany, New York 12237 within thirty (30) dates from the effective date of this Determination and Order. Any civil penalty not paid by the date prescribed herein shall be subject to all provision of law relating to debt collection by the State of New York. This includes, but is not limited to the imposition of interest, late payment charges and collection

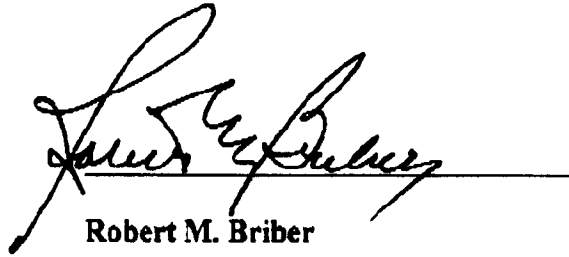
fees; referral to the New York State Department of Taxation and Finance for collection; and nonrenewal of permits or licenses (Tax Law § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32).

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

In the Matter of Oskar Weg, M.D.

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

Dated Aug 17, 1999



Robert M. Briber

**In the Matter of Oskar Weg, M.D.**

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

**Dated: August 13, 1999**

  
\_\_\_\_\_  
**Sumner Shapiro**

**In the Matter of Oskar Weg, M.D.**

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

Dated: 8/13, 1999

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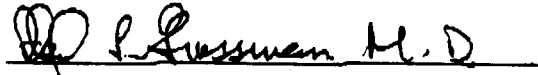
**Winston S. Price, M.D.**

**In the Matter of Oskar Weg, M.D.**

**Stanley L. Grossman, an ARB Member concurs in the Determination and Order in the**

**Matter of Dr. Weg.**

**Dated:** August 12, 1999



**Stanley L. Grossman, M.D.**

APPENDIX I

**APPENDIX I**  
**TERMS OF PROBATION**

1. Dr. Weg shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his profession.

2. Dr. Weg shall comply with all federal, state and local laws, rules and regulations governing the practice of medicine in New York State.

3. Dr. Weg shall submit prompt written notification to the Board addressed to the Director, Office of Professional Medical Conduct (OPMC), 433 River Street Suite 303, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.

4. Dr. Weg shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of his compliance with the terms of this Order. Dr. Weg shall personally meet with a person designated by the Director of OPMC as requested by the Director.

5. The period of probation shall be tolled during periods in which Dr. Weg is not engaged in the active practice of medicine in New York State. Dr. Weg shall notify the Director of OPMC, in writing, if he is not currently engaged or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Dr. Weg shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon his return to practice in New York State.

6. Dr. Weg's professional performance may be reviewed by the Director of OPMC. This review may



include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Dr. Weg and his staff at practice locations or OPMC offices.

7. Dr. Weg shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.

8. Dr. Weg shall comply with all terms, conditions, restrictions, limitations and penalties to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Dr. Weg as may be authorized pursuant to the law.