



# 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*

July 23, 1996

## **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Cindy M. Fascia, Esq.  
NYS Dept. of Health  
Corning Tower-Room 2438  
Empire State Plaza

Nathan L. Dembin, Esq.  
Nathan L. Dembin and Associates, P.C.  
225 Broadway-Suite 1905  
New York, New York 10007

Stephen Joel Weiss, M.D.  
7333 North Freeway Suite 100  
Houston, Texas 10007

### **RE: In the Matter of Stephen Joel Weiss, M.D.**

Effective Date: 07/30/96

Dear Ms. Fascia, Mr. Dembin and Dr. Weiss:

Enclosed please find the Determination and Order (No. 95-171) 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.

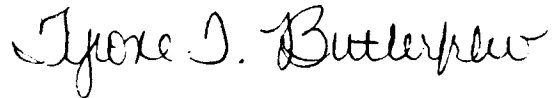
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified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

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 prominent initial "T".

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

IN THE MATTER  
OF  
STEPHEN JOEL WEISS

ADMINISTRATIVE  
REVIEW BOARD  
ORDER  
ARB NO. 95-171

The Administrative Review Board for Professional Medical Conduct (Review Board) sustains a March 5, 1996 Determination by a Hearing Committee on Professional Medical Conduct<sup>1</sup> (Hearing Committee), which found **STEPHEN JOEL WEISS, M.D.**, (Respondent) guilty of misconduct, based on disciplinary findings against the Respondent by the licensing authorities in Texas and Louisiana. The Board modifies the Determination's conclusion regarding what categories of misconduct the Respondent's Texas conduct would constitute if he had committed such in New York. The Board sustains the Committee's Determination to suspend the Respondent's New York medical license, but we modify the terms for the suspension and we add one year probation, in the event the Respondent chooses to return to active practice in New York

**PROCEDURAL HISTORY**

Review Board members **ROBERT M. BRIBER, SUMNER SHAPIRO, WINSTON S. PRICE, M.D., EDWARD C. SINNOTT, M.D.** and **WILLIAM A. STEWART, M.D.** conducted deliberations in this matter on May 3, 1996. Administrative Law Judge **JAMES F. HORAN** served as the Board's Administrative Officer. After an initial review in this case, the Review Board remanded the matter to the Hearing Committee on November 13, 1995, so that the Hearing Committee could conduct further proceedings and issue a Supplemental Determination. After the Committee rendered the Supplemental Determination, the Bureau of Professional Medical Conduct (Petitioner)

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<sup>1</sup>Teresa Briggs, M.D., Chair, David T. Lyon, M.D. and D. Marisa Finn comprised the Hearing Committee. Administrative Law Judge Jonathan M. Brandes served as the Committee's Administrative Officer.

requested an administrative review, through a notice the Board received on March 19, 1996, and the Respondent requested an administrative review, through a notice the Board received on March 21, 1996. The Board renders this Determination after reviewing the record from the hearing, the Committee's Supplemental Determination and the review briefs from the parties. **CINDY M. FASCIA, ESQ.** submitted a brief for the Petitioner on April 23, 1996. **NATHAN M. DEMBIN, ESQ.** submitted a brief on the Respondent's behalf, which the Board received on April 23, 1996.

By letter dated April 29, 1996, the Petitioner requested that our Administrative Officer delete from the Respondent's brief an attached Report on the Respondent by the State Medical Board of Ohio (Ohio Board), because that report was not in evidence before the Hearing Committee. The Respondent replied by fax transmission on the same day. Respondent's counsel argued that he did not receive the Ohio Board Report until after the additional hearing date on January 22, 1996, and stated that the Ohio Report was important and should not be concealed from the Review Board. Through an April 30, 1996 letter, our Administrative Officer advised the parties that he did not delete matters from parties' briefs, but that he would advise the Board that they could consider only evidence that was before the Hearing Committee. The Board reviewed this case without considering the Ohio Report, because that document was outside the hearing record. Public Health Law §230-c(4)(a) provides that all reviews shall consist of a review of the record below and submitted briefs only. The Board interprets that language to forbid us from considering any documents from outside the hearing record.

### **THE BOARD'S 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.

### **INITIAL HEARING COMMITTEE DETERMINATION**

The Petitioner brought this case pursuant to Public Health Law Section 230(10)(p). This statute provides for an expedited hearing when a licensee is charged solely with a violation of Education Law Section 6530(9). The Petitioner charged the Respondent with misconduct pursuant to Education Law Section 6530(9)(b) (having been found guilty of improper practice or professional misconduct by another state disciplinary agency) and Education Law Section 6530(9)(d) (disciplinary action taken by authorized disciplinary action of another state, when the conduct from which the action in the other state arises would amount to misconduct in New York). The charge in this case arose from actions taken upon the Respondent's license by the Texas State Board of Medical Examiners (Texas Board) and the Louisiana State Board of Medical Examiners (Louisiana Board). The Petitioner's Statement of Charges alleged that the conduct leading to the Texas and Louisiana actions would constitute misconduct in New York under the following categories: practicing with negligence on more than one occasion; practicing with incompetence on more than one occasion; and, ordering tests, treatment or using treatment facilities not warranted by a patient's condition.

The Hearing Committee adopted the factual statement from the Petitioner's statement of charges (Petitioner Exhibit 1) as the Committee's findings of fact. The Committee determined that the Respondent entered into an Agreed Order with the Texas Board on June 3, 1994. The Agreed Order's findings of fact state that the Respondent committed conduct with regard to numerous patients between approximately November 1988 and approximately September 1992. The Agreed Order listed the conduct as follows:

- 1 Respondent failed to accurately interpret and record diagnostic findings;
- 2 Respondent failed to formulate or document appropriate treatment plans or clinical rationale for subsequent testings;
- 3 Respondent recommended surgical intervention even though patients were poor surgical candidates;
- 4 Respondent ordered unnecessary referrals for epidural steroid injections, intravenous colchicine injections, and functional capacity evaluations;
- 5 Respondent ordered physical therapy for periods of more than a year; and
- 6 Respondent considered chemonucleolysis and performed multiple imaging studies in spite of the absence of sufficient objective physical findings, reproducible radiculopathy and previous negative test results.

The Texas Board found that the Respondent's conduct violated two provisions of the Medical Practice Act of Texas which prohibit "persistently and flagrantly overcharging or over treating patients" and prohibit "professional failure to practice medicine in an accepted manner consistent with public health and welfare". The Texas Board suspended the Respondent's license to practice medicine in Texas, but stayed the suspension and placed the Respondent on probation for five years, under numerous and highly specific terms set out in the Texas Board's Agreed Order. The Hearing Committee found that the Respondent's Texas conduct would amount to misconduct in New York.

The Hearing Committee's findings provide further that on February 6, 1995, the Respondent entered into a Consent Order with the Louisiana Board. In the Louisiana Consent Order, the Respondent waived his right to notice of charges and formal adjudication and acknowledged the substantial accuracy of certain information, including the Agreed Order between Texas and the Respondent. The Respondent further acknowledged that proof of such information upon administrative evidentiary hearing would establish grounds under the Louisiana Practice Act for the suspension, revocation or other such action as the Board might deem appropriate against his license to practice medicine in Louisiana. The Louisiana Order (in evidence as Petitioner's Exhibit 4) provides that while engaged in the practice of medicine in Texas, the Respondent:

1. failed to accurately interpret and record diagnostic findings;
2. failed to formulate or document appropriate treatment plans;
3. recommended surgical intervention for poor surgical candidates;
4. ordered unnecessary referrals for epidural steroid and other injections and evaluations;
5. ordered physical therapy for extended periods;
6. considered and performed studies in the absence of objective findings and in the presence of negative test results, and
7. on several patients, assessed conflicting impairment ratings.

Under the Louisiana Consent Order, the Respondent received 5 years probation, during which time the Respondent was prohibited from relocating to Louisiana to practice medicine. The Order provided further that if the Respondent chose to return to Louisiana subsequent to the five year period of probation, he would be required to appear before the Louisiana Board at least sixty days in advance of said relocation to demonstrate to the Board his compliance with all other probationary terms and to discuss with the Board his intended plans for the practice of medicine in Louisiana. The Hearing Committee found that the Respondent's action would constitute misconduct if committed in New York.

The Hearing Committee concluded that the Respondent waived his right to testify at the hearing, and noted that both counsel had submitted written legal arguments and closing statements. The Committee found the statement by Petitioner's counsel to be more persuasive and found that the Respondent in his violations exhibited medical incompetence as well as moral turpitude. The Committee stated that in other words, the Respondent was neither a competent clinician or an honest patient provider. The Committee found no basis for leniency against the Respondent. In assessing a penalty, the Committee noted that the Respondent was not practicing actively in New York and that there was no way in which New York could monitor the probation program for the Respondent in

Texas The Committee found that the only way to protect the public from the Respondent was to revoke his New York license. The Committee made that determination based on their understanding that the Respondent had shown no basis for leniency, and, based on their understanding that should the Respondent improve his level of practice, he would be free to reapply for licensure at a later time.

The Respondent requested an administrative review of the Committee's Initial Determination. The Respondent asked that the Review Board annul or modify the Hearing Committee's Determination or to remand this case to the Hearing Committee for a fair and just determination.

The Respondent argued that the Committee's procedures were prejudicial and unfairly tainted the hearing against the Respondent. The Respondent specifically cited rulings by the Hearing Committee's Administrative Officer, who interrupted the Respondent's opening statement and ordered the parties to submit arguments in writing rather than before the Hearing Committee. The Respondent also contested the Hearing Committee's finding that the Respondent waived his right to testify at the hearing. The Respondent contended that he was denied the right to testify at the hearing and the right to offer mitigating evidence to the Hearing Committee. The Respondent argued that the Texas Board's findings could not be the basis of findings of misconduct in New York, because the Hearing Committee failed to determine whether the Texas and New York misconduct statutes are the same. The Respondent also argued that the Committee had no grounds for finding that the Respondent's conduct evidenced moral turpitude. The Respondent argued that the Hearing Committee's penalty was excessive, unwarranted and inappropriate, because the State of Texas, site of this misconduct, determined not to interrupt the Respondent's practice for even one single day.

The Petitioner urged the Review Board to sustain the Hearing Committee's Determination. The Petitioner argued that the Respondent's misconduct, if committed in New York, would constitute professional misconduct. The Respondent argued that the Administrative Officer's ruling concerning written summations applied equally to both parties and was not prejudicial to the Respondent. The Petitioner argued that the Hearing Committee's penalty was appropriate because the Respondent



admitted to violating Texas statutes which forbid unprofessional or dishonorable conduct, that is likely to deceive or defraud the public, and which forbid persistently and flagrantly overcharging or overtreating patients. The Petitioner argued that revocation was appropriate in this case because the Committee found that the Respondent was neither a competent clinician nor an honest patient provider.

### **REMAND ORDER**

After our initial review in this matter, the Review Board voted to remand this matter to the Hearing Committee for further proceedings. The Board directed that the Committee conduct an additional hearing to allow the Respondent to testify and to offer any other evidence in mitigation of a possible penalty. The Review Board also overturned the Hearing Committee's finding that the Respondent waived his right to testify at the hearing, because at the original hearing date, the Committee's Administrative Officer had stated that the Respondent would have an opportunity to testify at a later time (Tr. p. 16). Nothing in the transcript nor the hearing record following that statement indicated that the Respondent waived his right to testify and the Hearing Committee failed to cite to any exhibit or transcript page to support their conclusion that the Respondent failed to testify. The Board provided that the Respondent's testimony should include a discussion of the current status of the Respondent's probation in Texas, including how much time remains to run on the period of probation. The Board also provided the Petitioner the opportunity to offer any relevant evidence in their possession relating to the status of the Respondent's Texas probation. The Board directed that the Committee then render a Supplemental Determination, including the Committee's rationale for concluding that the Respondent was not an honest patient provider. The Board provided each party with an opportunity to request a review of the Supplemental Determination.

## THE HEARING COMMITTEE'S SUPPLEMENTAL DETERMINATION

The Hearing Committee rendered their Supplemental Determination following an additional hearing day on January 22, 1996. The only evidence the Committee received on the additional hearing day was the Respondent's testimony followed by cross-examination. The Respondent testified that he did not admit to lapses in patient care in the Texas Agreed Order and asserted that his shortcomings in Texas involved sub-standard record-keeping.

The Hearing Committee Determination found that the Respondent's admitted misconduct in Texas would constitute misconduct in New York. The Committee did not accept the Respondent's explanation that his Texas admissions were limited to sub-standard record keeping and involved only a small number of patients. The Committee rejected the Respondent's testimony because the Texas Agreed Order contained Respondent's admission to misconduct involving "numerous patients". The Agreed Order also contained admissions to failing to interpret diagnostic findings, failing to formulate treatment plans and contained a conclusion that the Respondent persistently and flagrantly overcharged or overtreated patients. The Hearing Committee concluded that these admissions involved matters beyond record-keeping errors. The Committee also rejected the Respondent's claims that he was forced to accept the Texas Agreed Order. The Committee concluded that the Respondent signed the Agreed Order and that the Respondent had legal representation in Texas.

The Committee found that the Respondent's Texas misconduct involving overcharging or overtreating patients reflected on the Respondent's honesty. The Committee found that the Respondent's admissions also demonstrated a failure to practice medicine in an acceptable manner. Based on these findings, the Committee concluded that the Respondent was neither a competent clinician nor an honest patient provider.

The Committee determined that, in an effort to meet the expectation of the Review Board and to protect the people of New York, the Respondent's New York license would be suspended for five years. The Committee ordered further that the Respondent could not return to practice in New York until the Respondent documents that he completed the Texas and Louisiana probations successfully and until he can document that he has gone five years from the completion of his Louisiana and Texas Probation without being charged with professional misconduct in another jurisdiction.

After the Hearing Committee rendered their Supplemental Determination both parties filed Notices of Review and both parties then submitted briefs requesting that the Board modify or nullify the Committee's Determination.

The Petitioner contends that the Hearing Committee's penalty is inappropriate in light of the Committee's findings about the Respondent's lack of candor and honesty before the Committee and in light of the Respondent's serious misconduct. The Petitioner's brief raises five points, challenging the Committee's penalty only, which we repeat below.

1. The Committee found the Respondent was deceptive and dishonest in his testimony before the Committee.
2. The Committee concluded properly that the Respondent was neither a competent clinician nor an honest patient provider.
3. The Committee revised its original penalty of revocation in the mistaken belief that the Review Board directed it to do so.
4. Revocation is the appropriate penalty in this case.
5. The Committee's penalty is confusing.

The Respondent alleges that the Committee finding and sanction were unlawful, unjust, excessive, arbitrary and improperly invoked. The Respondent raised five issues for review.

- I. There was no basis for the Determination that the Respondent's actions constituted negligence or incompetence.
- II. There was no basis for the Determination that the Respondent was not an honest patient provider.

- III There is no basis for the Determination that the Respondent ordered excessive tests or treatment.
- IV The sanction imposed is excessive and arbitrary.
- V The Committee failed to follow the instructions of the ARB.

### **THE REVIEW BOARD'S FINAL DETERMINATION**

The Review Board sustains the Committee's Determination finding the Respondent guilty of professional misconduct. The Committee's Determination is consistent with their findings and conclusions that the Respondent's admitted misconduct in Texas would constitute misconduct in New York. We modify the Committee's Determination as to what categories of misconduct that the Respondent's Texas conduct would constitute in New York. The Board sustains the Committee's Determination that the Respondent's misconduct warrants his suspension from practice in New York. The Board modifies the length and terms of the suspension and imposes an additional period of probation. The Board rejects the Respondent's contention that the Hearing Committee failed to follow the Board's instructions about accepting additional evidence in this case. The Board finds no grounds for ordering a further hearing day.

**REMAND PROCEEDING:** In Point V in his brief, the Respondent contended that the Hearing Committee failed to follow the Board's instructions to allow the Respondent to testify and offer evidence in mitigation. The Respondent implies that the Committee's Administrative Officer acted improperly in denying the Respondent an opportunity to testify regarding the events underlying the Texas Agreed Order (Tr. pp. 29-36) and the Respondent states incorrectly that the Board was interested in the Respondent's interpretation of the underlying facts involved.

The Board remanded to the Hearing Committee for an additional hearing day so that the Respondent could testify in mitigation and could testify concerning his current probation status in Texas. The Board was not interested in the Respondent's interpretation of the events underlying the Texas Order. The Board finds that the Respondent's attempt at the second hearing day to testify about the Texas Settlement Conference (Tr. pp. 29-36) was an improper attempt to relitigate the Texas

proceeding. The Committee's Administrative Officer acted appropriately in refusing to allow such testimony. The sole purpose of the expedited proceeding in this case was to establish the nature and severity of the penalty, Matter of Berges, \_\_AD2d \_\_; 627 NYS 2d 855; 1995 N.Y. App. Div. LEXIS 6323 (Third Dept. 1995). Neither the Committee nor the Review Board can invalidate the Texas Agreed Order. The Respondent signed the Order and he was represented by counsel in Texas. He can not now repudiate the Agreed Order in this State. The Board agrees with the Hearing Committee that the Respondent's attempt to repudiate the Texas Order only served to damage the Respondent's credibility. The Board notes that, the year after the Respondent signed the Texas Agreed Order, the Respondent signed a Consent Order in Louisiana in which he repeated the admissions he had made in the Texas Agreed Order (Petitioner Ex. 4).

**GUILT ON THE MISCONDUCT:** Preponderant evidence demonstrated that the Respondent committed conduct in Texas which would constitute misconduct if he had committed that conduct in New York. In 1994, the Respondent signed an Agreed Order with the Texas Board. At paragraph 4 of the Order the Respondent admitted that on numerous patients between November 1985 and September 1992, the Respondent

- a. failed to accurately interpret and record diagnostic findings;
- b. failed to formulate or document appropriate treatment plans or clinical rationale for subsequent testing;
- c. recommended surgical intervention even though patient were poor surgical candidates;
- d. ordered unnecessary referrals for epidural steroid injections, intravenous colchicine injections, and functional capacity evaluations;
- e. ordered physical therapy for periods more than a year; and
- f. considered chemonucleolysis and performed multiple imaging studies in spite of the absence of significant objective physical findings, reproducible radiculopathy and previous negative test results.

The Respondent agreed that his conduct violated Texas statutes that proscribed persistently and flagrantly overcharging or overtreating patients and proscribed failure to practice medicine in an acceptable manner consistent with public health and welfare. The Respondent agreed to accept five years probation in Texas which included 12 probation terms, which appear as Paragraphs A through L in the Texas Order. The terms included a requirement that the Respondent obtain a second opinion on each patient for whom he prescribes physical therapy for more than six weeks in a twelve month period (Paragraph A), that the Respondent obtain continuing medical education (CME) in pain management (Paragraph C), that the Respondent refrain from prescribing or administering any drug for a patient unless the drug is medically indicated and is prescribed in therapeutic doses (Paragraph G), and that Radiologists perform and read all discograms the Respondent orders (Paragraph B).

The Board concludes that the Respondent's admissions in the Texas Agreed Order provide preponderant evidence to demonstrate that the Respondent's Texas conduct would constitute misconduct in New York, and we reject the Respondent's contentions to the contrary from Points I and III in his brief. The Respondent's admissions at Paragraphs 4.a., 4.c. and 4.f. in the Texas Agreed Order support a Determination that the Respondent's Texas conduct would constitute negligence on more than one occasion in New York. The Respondent's admissions at Paragraphs 4.a., 4.b., 4.d. and 4.f. demonstrate that the Respondent's Texas conduct would constitute negligence on more than one occasion in New York. The Respondent's admission at Paragraph 4.f. demonstrates that the Respondent's conduct would constitute ordering excessive tests, treatment or use of facilities not warranted by the patient's condition. The Board also rejects the Respondent's contention that his Texas admissions involved record keeping problems. The Respondent's admissions clearly involved substandard care and ordering excessive or unwarranted treatment, not record keeping errors. Further, the failure to record diagnostic findings or document appropriate treatment plans entitles the Hearing Committee or the Board to infer that there were no diagnostic findings or treatment plans. The Texas probation terms include requirements for CME in pain management and address the Respondent's prescribing of drugs. These and other probations terms demonstrate that Texas was concerned with the Respondent's knowledge of medicine and his patient care and not just with his record keeping.

The Board agrees with the Respondent's Point II that there were no grounds to find that the Respondent was not an honest patient provider. There was no charge that the Respondent's Texas conduct constituted fraud in New York. There was no admission in the Texas Order to support a conclusion that the Respondent intentionally provided false information or that the Respondent prescribed treatment only for his own financial gain. The Respondent admitted that he violated a statute forbidding persistently and flagrantly overcharging or overtreatment. There was no specific admission in the Agreed Order's Paragraph 4, however, to overcharging and the admission to excessive treatment, Paragraph 4.f., contained no language that indicated that the overtreatment resulted from fraudulent intent rather than from the Respondent's admitted incompetence or negligence. The Committee were entitled, however, to make the determination that the Respondent was not credible as a witness, since the Respondent testified at the hearing, and, the Committee were entitled to rely on that determination in assessing the Respondent's testimony and the conflicting evidence from the hearing.

**PENALTY:** The panel gave no explanation as to why they felt their penalty was necessary to protect the public nor what they meant when they referred to the "expectations of the ARB". The Board must assume that the penalty is based in part on the Committee's finding, beyond the charges, that the Respondent was a dishonest provider. The Board agrees with the Petitioner that the penalty is confusing and we agree with the Respondent that the penalty's terms would result in a actual period of suspension longer than five years. The Board has already remanded this case once for clarification and we see no point in a further remand. The Review Board can substitute our judgement for the Hearing Committee's in imposing a penalty, Matter of Wapnick, 203 AD2d 728, 611 NYS 2d 41 (Third Dept. 1994), and the Board will do so in this case.

The Respondent's Texas misconduct is serious. We reject the Petitioner's assertion that the conduct rises to the level to warrant revocation. The Board finds that the State of Texas has imposed strict probationary terms and the Board finds the five year probation, with terms including mandatory CME and practice restrictions, offer the Respondent the opportunity to correct the deficiencies that Texas found in the Respondent's practice. The Review Board votes to suspend the Respondent's license in New York until the Respondent completes successfully the Texas Probation.

The Board concludes that the period of suspension will protect our citizens and it will encourage the Respondent to complete the probation in Texas. The Board was concerned, however, by a statement in the Respondent's brief indicating that the Respondent may be able to end the Texas probation sooner than the five years provided in the Texas Agreed Order. The Board questions whether a shorter Texas probation could encourage the Respondent to return to his former substandard practice. The Board, therefore, imposes an additional period of one year probation in New York, to commence if the Respondent returns to practice in New York. This probation period will allow OPMC an opportunity to determine whether the Respondent has corrected his pattern of practice sufficiently, to be able to practice safely and effectively in New York.



**ORDER**

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

1. The Review Board **SUSTAINS** the Hearing Committee's Determination finding the Respondent guilty of professional misconduct.
2. The Review Board **MODIFIES** the Hearing Committee's Penalty Determination
3. The Respondent's license to practice medicine in New York is **SUSPENDED**, until the Respondent completes successfully the terms from his probation in Texas.
4. If the Respondent chooses to return to practice in New York, he must provide notice to the Director of the Office of Professional Medical Conduct at least thirty days prior to his return, and he must demonstrate to the Director's satisfaction that the Respondent's license is in good standing in all states where he maintains a license.
5. If the Respondent chooses to return to practice in New York, the Respondent shall be on probation for one year under the terms we set out in the Appendix to this Determination.

**ROBERT M. BRIBER**

**SUMNER SHAPIRO**

**WINSTON S. PRICE, M.D.**

**EDWARD SINNOTT, M.D.**

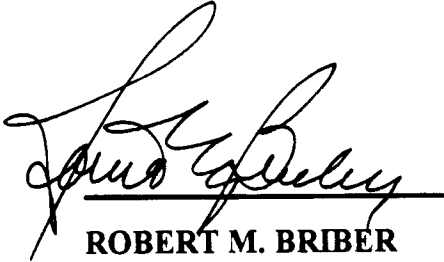
**WILLIAM A. STEWART, M.D.**

**IN THE MATTER OF STEPHEN JOEL WEISS, 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. Weiss

**DATED: Schenectady, New York**

July 5, 1996

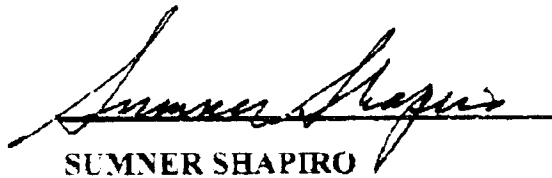
  
**ROBERT M. BRIBER**

IN THE MATTER OF STEPHEN JOEL WEISS, 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. Weiss

DATED: Deltmar, New York

July 10, 1996

  
SUMNER SHAPIRO

**IN THE MATTER OF STEPHEN JOEL WEISS, 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. Weiss

**DATED: Brooklyn, New York**

7/10, 1996

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 STEPHEN JOEL WEISS, 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. Weiss

**DATED: Roslyn, New York**

*July 5*, 1996



**EDWARD C. SINNOTT, M.D.**

**IN THE MATTER OF STEPHEN JOEL WEISS, 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. Weiss.

**DATED: Syracuse, New York**

*5 July*, 1996

*William A Stewart*

**WILLIAM A. STEWART, M.D.**

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

- \* Respondent will personally meet with a member of the Office of Professional Medical Conduct staff on a (quarterly, semi-annual, annual, random) basis at the discretion of the Director of the Office or designee.
  
- \* Respondent will conform fully:
  - a. to the professional standards of conduct imposed by law and by his or her profession
  - b. with all civil and criminal laws, rules and regulations.
  
- \* Respondent will notify the Office of Professional Medical Conduct of:
  - ✓ a. any and <sup>all</sup> investigations, charges, convictions or disciplinary actions taken by any local, state or federal agency, institution or facility, within thirty days of each action;
  - b. any and all changes in personal and professional addresses and telephone numbers and facility affiliations, within 30 days of such changes. This will include any change in practice location, within or outside of the State of New York. The date of departure from the State of New York, and the date of return, if any, must be reported in writing.

Failure to notify the Office of Professional Medical Conduct of any of the above will be considered a violation of probation.

- \* Respondent will maintain legible and complete medical records which accurately reflect evaluation and treatment of patients. Records will contain a comprehensive history, physical examination findings, chief complaint, present illness, diagnosis and treatment. In cases of prescribing, dispensing, or administering of controlled substances, the medical record will contain all information required by state rules and regulations regarding controlled substances.
  
- \* So long as there is full compliance with every term herein set forth, Respondent may continue to practice his or her profession in accordance with the terms of probation. Upon receipt of evidence on non compliance with, or any violation of these terms, the Director of the Office of Professional Medical Conduct and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized by law.
  
- \* Respondent shall assume and bear all costs related to compliance with the terms of probation.