



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

February 15, 2007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Terrence Sheehan, Esq.
NYS Department of Health
90 Church Street – 4th Floor
New York, New York 10007

Anthony Z. Scher, Esq.
Wood & Scher, Esqs.
222 Bloomingdale Road – Suite 311
White Plains, New York 10605

RE: In the Matter of Allen C. Chamberlin, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 07-38) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the 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 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.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review

Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties other than suspension or revocation until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

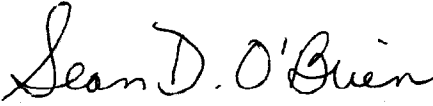
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,



Sean D. O'Brien, Director
Bureau of Adjudication

SDO:cah

Enclosure

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

COPY

IN THE MATTER
OF
ALLEN C. CHAMBERLIN, M.D.

REMAND

DETERMINATION

AND

ORDER

BPMC #07-38

Pursuant to a an Order of the of the Supreme Court, Appellate Division, Third Judicial Department, this matter was remanded to the Board of Professional Medical Conduct (BPMC) Hearing Committee on November 22, 2006. The Court has directed the BPMC Hearing Committee to redetermine the penalty "inasmuch as the penalty imposed was not separately assessed as to each of the charges and specifications." (Chamberlin v. New York State Board for Professional Medical Conduct, p. 4).

PROCEDURAL HISTORY

The BPMC Hearing Committee issued a decision dated July 22, 2005 in which Dr. Chamberlin's license to practice medicine was revoked for fraudulent practice, negligence on more than one occasion, filing a false report, moral unfitness and failure to maintain adequate records. In addition, Dr. Chamberlin was fined an amount of \$30,000 for three separate acts of fraudulent practice. Dr. Chamberlin appealed pursuant to CPLR Article 78. The Supreme Court, Appellate Division, Third Judicial Department sustained Specifications 1, 2, 3, 8, 9, 10, and 13. However, the appellate brief filed on behalf of the Department made concessions that

there was no substantial evidence to support allegations that a complete examination was missing from the records of five patients as alleged in paragraphs A1, B1, D1, G1, and H1 of the Statement of Charges (p. 40, Footnote 24). As a result, the Court as stated above, ordered the Hearing Committee to reconvene and redetermine the penalty.

By letter dated January 2, 2007, the Department argued that this was a de minimus adjustment and requested that the same penalty of revocation plus a \$30,000 fine be re-imposed. By letter dated, January 4, 2007, Dr. Chamberlin argued that he has suffered devastating financial consequences from being out of practice for approximately two years in addition to the assessed \$30,000 fine. In order to resolve the matter without further litigation, he asks that the penalty be altered from revocation and fine to lifetime limitation on all medical practice.

REDETERMINATION AS TO PENALTY

The Hearing Committee was reconvened on February 2, 2007 and reviewed the arguments presented by both parties with respect to penalty. They are not compelled by the financial hardship arguments made by Dr. Chamberlin and find no reason to modify or reduce the penalty. In their opinion, Dr. Chamberlin's failure to produce the "special reports" sustains the allegations of inadequate medical records for Patients A, B, D, G, and H. (See Hearing Committee Finding of Facts # 3, 35, 63, 98, and 100).

Upon the Order of the Court the Hearing Committee has redetermined the penalty as follows:

FRAUDULENT PRACTICE

The Hearing Committee sustains the First, Second and Third Specifications. The penalty assessed is revocation and a \$30,000 civil penalty (\$10,000 for each fraudulent act).

NEGLIGENCE ON MORE THAN ONE OCCASION

The Hearing Committee sustains the Sixth Specification and the penalty assessed is revocation.

INCOMPETENCE ON MORE THAN ONE OCCASION

The Hearing Committee did not sustain any of these Specifications.

FALSE REPORT

The Hearing Committee sustains the Eighth, Ninth and Tenth Specifications and assesses a penalty of revocation.

MORAL UNFITNESS

The Hearing Committee sustains the Thirteenth Specification and assesses a penalty of revocation.

FAILURE TO MAINTAIN RECORDS

The Hearing Committee sustains the Fourteenth through Twenty-First Specifications and assesses a penalty of revocation.

The Hearing Committee re-imposes the same penalty issued in its Determination of July 22, 2005 and is set forth below.

ORDER

Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The First, Second, Third, Sixth, Eighth, Ninth, Tenth and Thirteenth through Twenty-First of the Specification of Professional Misconduct, as set forth in the Statement of Charges (Petitioner's Exhibit # 1), are **SUSTAINED**; and

2. The Fourth, Fifth, Seventh, Eleventh, and Twelfth of the Specification of Professional Medical Misconduct against Respondent, as set forth in the Statement of Charges (Petitioner's Exhibit # 1), are **NOT SUSTAINED**; and

3. Respondent's license to practice medicine in New York State be and hereby is **REVOKED**; and

4. A fine in the amount of THIRTY THOUSAND DOLLARS (\$30,000) be and hereby is imposed against Respondent. Payment of the aforesaid penalty shall be made to the Bureau of Accounts Management, New York State Department of Health, Corning Tower Building, Room 1258, Empire State Plaza, Albany, N.Y. 12237 within thirty (30) days of the effective date of this Order.

5. That any civil penalty not paid by the date prescribed herein shall be subject to all provisions 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; and non renewal of permits or licenses (Tax Law §171[27]; State Finance Law §18; CPLR §5001; Executive Law §32).

6. This Order shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

DATED: New York, New York

February 12, 2007



MILTON O.C. HAYNES, M.D.

(Chairperson)

NEIL J. MACY, M.D.

JAMES J. DUCEY

TO: Terrence Sheehan Esq.
Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
90 Church Street- 4th Floor
New York, NY 10007

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