



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

Paula Wilson
Executive Deputy Commissioner

August 9, 1993

Effective Date: 8/16/93

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Nicholas G. Georgakis, M.D.
300 Federal Road
Brookfield, Connecticut 06804

Steven J. Hyman, Esq.
Leavy, Rosensweig & Hyman
11 East 44th Street
New York, New York 10017

Roy Nemerson, Esq.
NYS Department of Health
Bureau of Professional Medical Conduct
5 Penn Plaza - Sixth Floor
New York, New York 10001-1810

RE: In the Matter of Nicholas George Georgakis, M.D.

Dear Dr. Georgakis, Mr. Hyman, and Mr. Nemerson:

Enclosed please find the Determination and Order (No. ARB-93-41) 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.

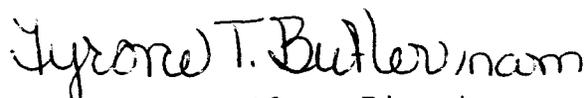
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified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

Office of Professional Medical Conduct
New York State Department of Health
Corning Tower - Fourth Floor (Room 438)
Empire State Plaza
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 than 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)].

Very truly yours,

A handwritten signature in black ink that reads "Tyrone T. Butler, nam". The signature is written in a cursive style.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nam
Enclosure

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

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IN THE MATTER : ADMINISTRATIVE
OF : REVIEW BOARD
NICHOLAS GEORGE GEORGAKIS, M.D. : DETERMINATION
: AND ORDER
: ARB NO.93-41

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The Administrative Review Board for Professional Medical Conduct (Review Board), consisting of **ROBERT M. BRIBER, MARYCLAIRE B. SHERWIN, WINSTON S. PRICE, M.D. EDWARD C. SINNOTT, M.D. and WILLIAM A. STEWART, M.D.** held deliberations on June 22, 1993 at 5 Penn Plaza in New York, New York¹ to review the Professional Medical Conduct Hearing Committee's (Committee) March 24, 1993 Determination finding Dr. Nicholas George Georgakis guilty of professional misconduct. Dr. Georgakis requested the review through a Notice which the Review Board received on April 15, 1993. James F. Horan served as Administrative Officer to the Review Board. Steven Hyman, Esq. submitted a brief for Dr. Georgakis on May 18, 1993 and Roy Nemerson, Esq. submitted a response for OPMC on May 25, 1993.

¹ Dr. Stewart was not present at the deliberations in New York City, but participated by telephone.

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.

HEARING COMMITTEE DETERMINATION

The Office of Professional Medical Conduct brought this proceeding against Dr. Georgakis pursuant to PHL 230(10)(p) and Education Law 6530(9), which provide an expedited hearing in cases in which professional misconduct charges against a physician are based upon a prior criminal conviction in New York State or another jurisdiction or upon a prior administrative adjudication which would amount to misconduct if committed in New York State. 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 matter found that OPMC had

met its burden of proof in establishing that the Respondent was convicted upon a guilty plea for one count of bribing a public official, in violation of Title 18 United States Code, Sections 201(b) and 2, before the United States District Court for the District of Connecticut. The Hearing Committee found that the crime involved the Respondent's participation in a scheme in which he made payments to an Internal Revenue Service agent in return for reduced tax bills. The U.S. District Court sentenced the Respondent to five years imprisonment and imposed a five thousand (\$5000.00) dollar fine. The sentence was suspended after the Respondent had spent four months in prison and the Respondent was placed on five years probation. The Hearing Committee also found that the Respondent had voluntarily surrendered his license to practice medicine in Connecticut during his prison term. The Hearing Committee determined that the Respondent's federal bribery conviction constituted misconduct.

The Hearing Committee concluded that the Respondent's conviction represented a significant breach of the public trust and that New York State had an independent responsibility to determine the proper penalty to impose in this case. The Hearing Committee found several mitigating factors in the case. The Committee considered that the Respondent had been incarcerated in federal prison and remains on probation. The Committee noted that the Respondent's misconduct concerned his personal finances and did not involve his medical practice nor place any of his patients at risk. The Hearing Committee also noted that the

Respondent had surrendered his Connecticut license during the period he was incarcerated. Finally, the Hearing Committee were impressed by the Respondent's demeanor at the hearing and were convinced that he was remorseful for his past deeds and that he would not place his patients at any significant risk of harm if he continued to hold a license to practice medicine in New York.

The Hearing Committee voted to censure and reprimand the Respondent for his misconduct and to impose a five thousand (\$5000.00) dollar fine.

REQUESTS FOR REVIEW

The Office of Professional Medical Conduct urges the Review Board to uphold the Hearing Committee's Determination. OPMC asks that the Review not reduce the Hearing Committee's penalty, because the penalty is already generous.

The Respondent does not dispute the Hearing Committee's findings of fact and does not challenge the Committee's Determination to impose a five thousand (\$5000.00) dollar fine for the Respondent's misconduct. The Respondent does request that the Review Board modify the remainder of the penalty and remove the censure and reprimand. The Respondent points out that the censure and reprimand portion of the penalty will result in a report to the National Practitioner Data Bank.

REVIEW BOARD DETERMINATION

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

The Review Board sustains the Hearing Committee's Determination that the Respondent was guilty of professional misconduct and we sustain that portion of the Hearing Committee's penalty which imposed a five thousand (\$5000.00) dollar fine against the Respondent for his misconduct. The misconduct determination and the fine portion of the penalty are consistent with the Committee's findings and conclusions and the fine is an appropriate penalty when the Respondent's misconduct is considered in light of the mitigating factors that the Hearing Committee concluded were present in this case.

The Review Board votes to overturn that portion of the Hearing Committee penalty which imposed a censure and reprimand, because that portion of the penalty will result in a report being filed concerning the Respondent with the National Practitioner Data Bank, which may lead to further actions against the Respondent's medical license or medical practice. The Review Board does not believe that this is an appropriate sanction in this case in view of the passage of time since the Respondent's actual misconduct. Further, we do not believe that this sanction is consistent with the Hearing Committee's findings and conclusions that the Respondent's misconduct did not involve his medical practice and did not involve patient care. This sanction is also inconsistent with the Hearing Committee's conclusion that the

Respondent's continued licensure does not place the people of New York at any significant risk of harm.

ORDER

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

1. The March 24, 1993 Determination of the Hearing Committee on Professional Medical Conduct which found Nicholas George Georgakis guilty of professional misconduct is sustained.
2. The Hearing Committee's Determination to impose a Five Thousand (\$5000.00) Dollar fine against Dr. Georgakis is sustained.
3. The Hearing Committee's Determination to censure and reprimand Dr. Georgakis is overruled.

ROBERT M. BRIBER

WINSTON S. PRICE, M.D.

MARYCLAIRE B. SHERWIN

EDWARD C. SINNOTT, M.D.

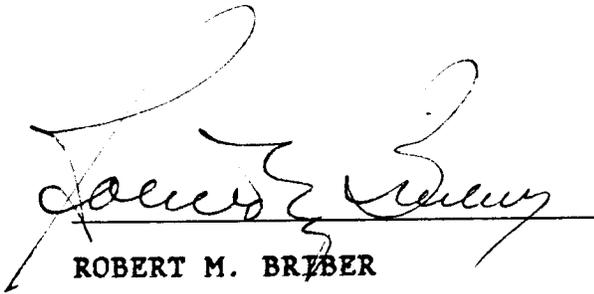
WILLIAM A. STEWART, M.D.

IN THE MATTER OF NICHOLAS GEORGE GEORGAKIS, 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. Georgakis.

DATED: Albany, New York

July 7, 1993


ROBERT M. BRIBER

IN THE MATTER OF NICHOLAS GEORGE GEORGAKIS, M.D.

MARYCLAIRE B. SHERWIN, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Georgakis.

DATED: Albany, New York

July 30, 1993

Maryclaire B. Sherwin
MARYCLAIRE B. SHERWIN

IN THE MATTER OF NICHOLAS GEORGE GEORGAKIS, 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. Georgakis.

DATED: Brooklyn, New York

JULY 27th, 1993

A handwritten signature in black ink, appearing to read 'W.S. Price', is written over a horizontal line. The signature is stylized and cursive.

WINSTON S. PRICE

IN THE MATTER OF NICHOLAS GEORGE GEORGAKIS, 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. Georgakis.

DATED: Albany, New York

July 26, 1993

A handwritten signature in cursive script, appearing to read "Edward C. Sinnott", written over a horizontal dashed line.

EDWARD C. SINNOTT, M.D.

IN THE MATTER OF NICHOLAS GEORGE GEORGAKIS, 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. Georgakis.

DATED: Albany, New York

August 4, 1993

A handwritten signature in cursive script that reads "William A. Stewart". The signature is written in dark ink and is positioned above a horizontal line.

WILLIAM A. STEWART, M.D.