



STATE OF NEW YORK DEPARTMENT OF HEALTH

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

January 31, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Salih Zamzam, M.D.
Route #2, Box 5
Grundy, Virginia 24614

Kevin P. Donovan, Esq
NYS Dept. of Health
Rm. 2429 Corning Tower
Empire State Plaza
Albany, New York 12237

RECEIVED
JAN 31 1995
PROFESSIONAL
MEDICAL CONDUCT

RE: In the Matter of Salih Zamzam, M.D.

Effective Date: 2/7/95

Dear Dr. Zamzam and Mr. Donovan:

Enclosed please find the Determination and Order (No. 94-197) 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.

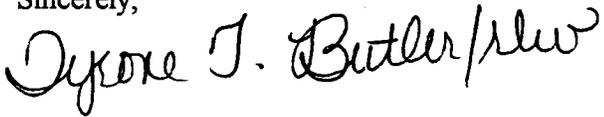
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified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

Office of Professional Medical Conduct
New York State Department of Health
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" followed by a stylized flourish or initials.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:

Enclosure

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

**ADMINISTRATIVE
REVIEW BOARD
DECISION AND
ORDER NUMBER
BPMC 94-197**

**IN THE MATTER
OF
SALIH M. ZAMZAM, M.D.**

The Administrative Review Board for Professional Medical Conduct (hereinafter the "Review Board"), consisting of **ROBERT M. BRIBER, SUMNER SHAPIRO, WINSTON S. PRICE, M.D., EDWARD C. SINNOTT, M.D. and WILLIAM A. STEWART, M.D.**¹ held deliberations on November 18, 1994 to review the Hearing Committee on Professional Medical Conduct's (Hearing Committee) September 23, 1994 Determination finding Dr. Salih M. Zamzam (Respondent) guilty of professional misconduct. The Respondent requested the Review through a Notice which the Board received on October 7, 1994. James F. Horan served as Administrative Officer to the Review Board. Dr. Zamzam filed a brief on his own behalf, which the Review Board received on October 24, 1994. Kevin P. Donovan, Esq. filed a brief for the Office of Professional Medical Conduct (Petitioner), which the Board received on October 17, 1994.

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:

¹Dr. Sinnott participated in the deliberations by telephone conference.

- 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 Petitioner brought this case pursuant to Public Health Law Section 230(10)(p) and Education Law Section 6530(9)(a)(i), which provide an expedited hearing in cases in which professional misconduct charges against a Respondent are based upon a prior criminal conviction in New York or another jurisdiction or upon a prior administrative adjudication which would amount to misconduct if committed in New York State. The expedited hearing determines the nature and severity of the penalty which the Hearing Committee will impose based upon the criminal conviction or prior administrative adjudication.

The Hearing Committee in this case found that the Petitioner had met its burden of proof in establishing that the Respondent had been disciplined by the Virginia Board of Medicine, for conduct which the Committee determined would constitute professional misconduct under the laws of New York State. The Committee found that the Respondent had executed a Consent Order with the Virginia Board, which required that the Respondent have a female chaperon present at all times while examining or treating a female patient, restricting the Respondent's ability to prescribe, administer or dispense any controlled substances and requiring that the Respondent complete continuing medical education concerning the prescription of controlled substances. The Virginia action involved the Respondent's failing to appropriately examine, evaluate and manage two patients, engaging in

sexually inappropriate behavior with three patients under the guise of medical examinations, and, prescribing controlled substances without therapeutic purpose to a patient who subsequently died of drug poisoning due to the controlled substance.

The Hearing Committee voted to revoke the Respondent's license to practice medicine in New York State. The Committee noted that the Respondent failed to appear at the Hearing, and that the Respondent submitted written materials which the Committee found to be of no evidentiary value. The Committee found that the Respondent repeatedly engaged in sexually inappropriate behavior with patients and improperly prescribed Methadone tablets and dispensed PACAPS to a patient the Respondent knew to be addicted to controlled substances. That patient died of multiple drug poisoning due to substances the Respondent prescribed. The Committee concluded that the serious nature of the offenses and the absence of mitigating factors made revocation the only appropriate sanction.

REQUESTS FOR REVIEW

The Respondent has asked that the Review Board overrule the Hearing Committee's Determination revoking the Respondent's New York license. The Respondent challenges the Virginia Consent Order. He alleges that he signed the Order only on the promise of his attorney that by signing the Order, the Respondent could continue to practice. The Respondent denies that he engaged in sexually inappropriate behavior with any patients and he contends that he was unaware at the time he prescribed Methadone to another patient that Methadone should be given only in a licensed clinic. The Respondent contends that the Virginia Board did not give credence to the allegations of sexual misconduct, because the Board did not revoke his license. The Respondent alleges that the Virginia action was based essentially on the case of the patient to whom the Respondent prescribed Methadone. The Respondent alleges that the Patient died as a result of suicide and not because of the drugs which the Respondent prescribed. The Respondent also contends that he did not receive a fair hearing in New York, because he did not have enough time to obtain a New York lawyer and the Respondent contends that the Hearing Committee did not read the material which the Respondent

submitted. The Respondent characterizes the Hearing Committee's penalty as severe, noting that Virginia did not revoke or suspend the Respondent's license.

The Petitioner has asked that the Review Board dismiss the Respondent's appeal because the appeal was not properly filed, since the Respondent did not serve a copy of the Notice of Review on the Petitioner, as required by Public Health Law Section 230-c. The Petitioner notes that if the Board dismisses the appeal, the Respondent will still have a remedy to challenge the Hearing Committee's Determination in the Courts.

REVIEW BOARD DETERMINATION

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

The Review Board votes to sustain the Hearing Committee's Determination finding the Respondent guilty of professional misconduct based upon the Virginia Consent Order. The Respondent entered into the Consent Order and he can not now repudiate his consent or, relitigate the case before the Hearing Committee or the Review Board. The conduct involved in the Virginia action, the prescription of methadone outside a licensed clinic, the prescribing of Methadone in combination with other substances to a known addict and the inappropriate sexual contact with patients all constitute misconduct under the laws of New York.

The Review Board sustains the Hearing Committee's Determination revoking the Respondent's license to practice medicine in New York. The New York Hearing Committee and the Review Board are not bound by the penalty which Virginia imposed in the Respondent's case. The Hearing Committee and the Review Board have the independent responsibility to protect the health of the people of this State. The Respondent violated the basic trust a patient places in a physician through his sexual behavior with patients. He compounded that misconduct by prescribing Methadone outside a clinic setting, concurrently with other substances, to a Patient who later died from drug poisoning caused by substances which the Respondent prescribed. The Review Board concludes that the Hearing Committee's penalty is consistent with their findings and conclusions and is appropriate in

light of the serious nature of the Respondent's misconduct.

ORDER

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

1. The Review Board **sustains** the Hearing Committee's Determination finding Dr. Salih Zamzam guilty of professional misconduct.
2. The Review Board **sustains** the Hearing Committee's Determination revoking the Respondent's license to practice medicine in New York State.

ROBERT M. BRIBER

SUMNER SHAPIRO

WINSTON S. PRICE, M.D.

EDWARD SINNOTT, M.D.

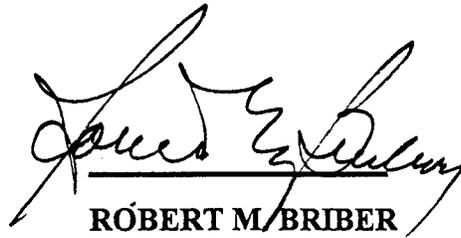
WILLIAM A. STEWART, M.D.

IN THE MATTER OF SALIH ZAMZAM, 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. Zamzam.

DATED: Albany, New York

12/16 , 1994



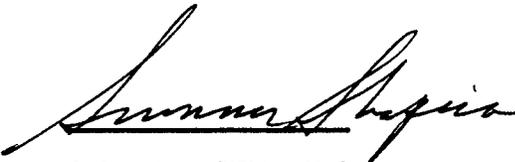
ROBERT M. BRIBER

IN THE MATTER OF SALIH ZAMZAM, 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. Zamzam.

DATED: Delmar, New York

Dec. 28, 1994

A handwritten signature in cursive script, reading "Sumner Shapiro". The signature is written in black ink and is positioned above the printed name.

SUMNER SHAPIRO

IN THE MATTER OF SALIH ZAMZAM, 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. Zamzam.

DATED: Brooklyn, New York

_____, 1994



WINSTON S. PRICE, M.D.

IN THE MATTER OF SALIH ZAMZAM, 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. Zamzam.

DATED: Roslyn, New York

December 16, 1994

A handwritten signature in cursive script, appearing to read "Edward C. Sinnott", written over a horizontal line. The signature is positioned to the right of the date.

EDWARD C. SINNOTT, M.D.

IN THE MATTER OF SALIH ZAMZAM, 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. Zamzam.

DATED: Syracuse, New York

16 Dec., 1994

William A. Stewart

WILLIAM A. STEWART, M.D.