



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

Christ Louis Zois, M.D.
2 East 80th Street
New York, New York 10001

Eugene R. Scheiman, Esq.
Baer, Marks & Upham
805 Third Avenue
New York, New York 10022

Daniel Guenzburger, Esq
NYS Dept. of Health
5 Penn Plaza- Sixth Floor
New York, New York 10001

RECEIVED
JAN 31 1995
MEDICAL CONDUCT

RE: In the Matter of Christ Louis Zois, M.D.

Effective Date: 2/7/95

Dear Dr. Zois, Mr. Scheiman and Mr. Guenzburger:

Enclosed please find the Determination and Order (No. 94-227) 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.

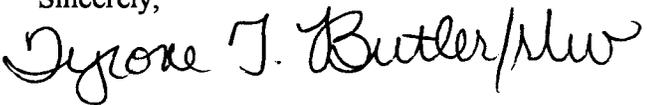
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified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

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:

Enclosure

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

IN THE MATTER

OF

CHRIST LOUIS ZOIS, M.D.

**ADMINISTRATIVE
REVIEW BOARD
DECISION AND
ORDER NUMBER
BPMC 94-227**

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.** held deliberations by telephone conference on December 30, 1994 to review the Hearing Committee on Professional Medical Conduct's (Hearing Committee) October 27, 1994 Determination finding Dr. Christ Louis Zois (Respondent) guilty of professional misconduct. The Respondent requested the Review through a Notice which the Board received on November 7, 1994. James F. Horan served as Administrative Officer to the Review Board. Eugene R. Scheiman, Esq. filed a brief for the Respondent, which the Board received on December 12, 1994. Daniel Guenzburger, Esq. filed a reply brief for the Office of Professional Medical Conduct (Petitioner), which the Review Board received on December 22, 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:

- 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 charged the Respondent, a psychiatrist, with practicing medicine with negligence on more than one occasion, incompetence on more than one occasion, gross negligence, practicing the profession fraudulently and exercising undue influence over a patient in such a manner as to exploit the patient for the financial gain of the Respondent. The charges involved the Respondent's relationship with and treatment of a person, Patient A, from 1973 to 1986.

The Committee found the Respondent guilty on all six specifications of misconduct. The Committee based their Determination on their findings that the Respondent has a business relationship and a social relationship with Patient A, that he had accepted expensive and substantial gifts from Patient A and that he had permitted Patient A to accumulate a substantial debt (even though one of the Patient's problems had been stress over financial difficulties). The Committee also found that the Respondent had failed to inform Patient A that he had a business relationship with Patient A. The Committee found, based on the Administrative Officer's ruling on collateral estoppel, that the Respondent never revealed to Patient A that he was a partner with Patient A's attorney, in A and Z Associates, Patient A's manager and licensing agent.

The Committee found that the business and social relationship , the receipt of the gifts and

allowing the Patient to accumulate the debt constituted individual acts of negligence and incompetence and that these four instances of misconduct taken together constituted egregious negligence and egregious incompetence. The Committee found further that the Respondent's business relationship with Patient A constituted exploitation of the Patient by the Respondent for his own financial gain, and that the Respondent controlled Patient A for his own advantage.

On the negligence and incompetence counts and on the undue influence count, the Committee stated that whether or not the Patient knew of the business relationship with the Respondent was not relevant to the Committee's Determination that the Respondent was guilty of misconduct on those counts.

The Committee found that the Respondent's failure to disclose the existence of the business relationship to Patient A could have been for no other reason but to mislead and take advantage of Patient A. The Committee inferred from that finding that this concealment was intentional and that the Respondent practiced fraudulently.

The Committee voted to revoke the Respondent's license to practice medicine in New York State and to impose a civil penalty of Fifty Thousand (\$50,000) Dollars. The Committee noted that the revocation and fine were based on the four incompetence and negligence charges and the undue influence charge. The Committee noted that the collateral estoppel issue was not relevant to any of those charges and that the Committee sustained those charges regardless of whether or not Patient A was aware that she had a business relationship with the Respondent. The Committee concluded that the Respondent failed to even acknowledge an ethical standard in practicing psychiatry and that the Respondent's irresponsible care and treatment for Patient A demonstrated an inability to fulfill the ethical guidelines of psychiatry. The Committee concluded that the Respondent took advantage of Patient A for his own personal and financial gain and that the Respondent totally lacked understanding of what a proper psychotherapeutic relationship should have been.

The Committee imposed the civil penalty in addition to revocation because of what they felt to be the Respondent's excessive exploitation of Patient A and as a deterrent to others.

REQUESTS FOR REVIEW

RESPONDENT: The Respondent has asked the Review Board to reverse the Hearing Committee's Determination and overturn the Hearing Committee's Penalty. The Respondent's brief contends that the Committee's Determination demonstrates their personal dislike of the Respondent and his school of practice and the brief contends that the Determination could establish dangerous precedents that will be detrimental to the interests of psychiatrists and patients alike.

The Respondent argues that the Petitioner failed to establish any of the six charges against the Respondent. The Respondent challenges the sufficiency of the evidence which the Petitioner produced against the Respondent and the findings by the Hearing Committee. The Respondent contends that there was nothing unethical or improper about his business or social relationship with Patient A and nothing improper with accepting gifts from the Patient or in deferring her debt to the Respondent for his professional services. The Respondent contends that the Department failed to produce evidence to demonstrate whether Patient A knew of the business relationship with the Respondent and the Respondent argues that the Hearing Committee's Administrative Officer was incorrect in his ruling on collateral estoppel.

The Respondent also contends that the case should be dismissed because the Petitioner's delay in commencing the proceeding resulted in actual prejudice to the Respondent. The Respondent notes that his former business associate and Patient A's former attorney, Mr. Andrews, died in 1993 and was unavailable to testify on the Respondent's behalf in this proceeding.

The Respondent contends that the Hearing Committee's Penalty is excessive. The Respondent's brief questions whether there has been a similar case focused on ethical considerations rather than medical treatment. The Respondent argues that there is currently a debate over ethical standards among psychiatrists. The Respondent also contends that the revocation of a physician's license is appropriate only in cases involving far more egregious conduct.

PETITIONER: The Petitioner urges the Board to sustain the Hearing Committee's Determination on the charges and the Determination to revoke the Respondent's license to practice medicine in New York State. The Petitioner contends that long accepted medical principles forbid psychiatrists from maintaining extensive social or business involvement with patients. The Petitioner argues that the revocation of the Respondent's license and the civil penalty are appropriate sanctions in view of the Respondent's repeated and egregious acts of negligence and incompetence and the Respondent's exercise of undue influence upon Patient A.

The Petitioner contends that three issues that the Respondent raised in his brief (alleged bias by the Committee, the ruling by the Administrative Officer on collateral estoppel and any delay in commencing the proceeding against the Respondent) are issues beyond the Review Board's scope of review.

Both the Petitioner and the Respondent requested that our Administrative Officer withhold the other party's submission from the Review Board, because the submissions were late. Our Administrative Officer forwarded both submissions to the Review Board.

REVIEW BOARD DETERMINATION

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

The Review Board sustains our Administrative Officer's determination to provide the Respondent's brief and the Petitioner's reply brief to the Review Board. Our Administrative Officer does not have the authority to withhold a brief or a reply brief from the Board. Further, the Review Board has noted in the past that we will not refuse to accept briefs or reply briefs merely because the submissions are a few days late, as long as the late filing does not delay our planned deliberations or extend the period for the statutory stay.

The Review Board finds that two of the issues which the Respondent raised in the brief, the alleged delay in commencing the Hearing against the Respondent and the Hearing Committee's

Administrative Officer's ruling on collateral estoppel, are issues which are beyond our limited scope of review. The Respondent must raise these matters with the courts.

The Review Board sustains the Hearing Committee's Determination that the Respondent was guilty of negligence and incompetence on more than one occasion, gross negligence, gross incompetence and exercising undue influence over Patient A for the Respondent's own financial gain. The Determination is consistent with the Committee's findings and conclusions that the Respondent carried on an extensive and unethical business and social relationship with Patient A, that he accepted gifts from Patient A and that he allowed the Patient to accumulate a large debt for the Respondent's professional services. The Determination is consistent with the Committee's conclusion that the Respondent was irresponsible in his care and treatment of Patient A, that he lacked understanding of a proper psychotherapeutic relationship and that he used and exploited Patient A for the Respondent's own personal and financial gain. The Review Board finds that the Committee's Determination on the five charges was consistent with their finding that whether or not Patient A was aware that she was in business with the Respondent was not relevant to a finding of guilt on the charges.

The Review Board finds that the Hearing Committee's findings, that the Respondent did not inform Patient A that the Respondent was in a business relationship with Patient A, was consistent with the Committee's Determination that the Respondent was guilty of fraud. We note, however, that the Committee's finding on fraud was directly related to their Administrative Officer's ruling on collateral estoppel and that we have already stated that the question of whether the ruling on collateral estoppel was correct is clearly a legal issue which is for the courts to decide.

The Review Board finds nothing in the record or in the Hearing Committee's Determination to demonstrate that the Hearing Committee based their findings and conclusions on any personal dislike for or bias against the Respondent.

The Review Board sustains the Hearing Committee's Determination to revoke the Respondent's license to practice medicine in New York State and to impose a civil penalty of Fifty Thousand (\$50,000) Dollars. The Committee's Determination is consistent with their findings that the Respondent exploited Patient A for his own financial benefit, that he was irresponsible in his care

and treatment of Patient A and that he lacked understanding of a proper therapeutic relationship. The penalty is appropriate as a sanction in view of the serious and extensive nature of the Respondent's misconduct and as a deterrent against such misconduct by others.

The Review Board concludes that the Committee's Penalty is appropriate regardless of whether or not the Respondent was guilty of fraud and regardless of whether or not Patient A was aware of the business relationship with the Respondent.

ORDER

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

1. The Administrative Review Board **sustains** the Hearing Committee's October 27, 1994 Determination finding Dr. Zois 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.

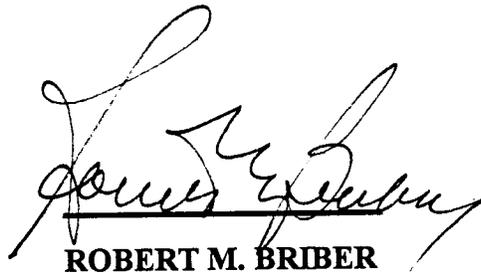
WILLIAM A. STEWART, M.D.

IN THE MATTER OF CHRIST LOUIS ZOIS, 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. Zois.

DATED: Albany, New York

January 9, 1995

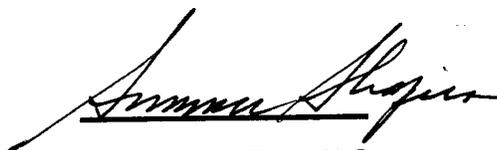

ROBERT M. BRIBER

IN THE MATTER OF CHRIST LOUIS ZOIS, 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. Zois.

DATED: Delmar, New York

January 7, 1995

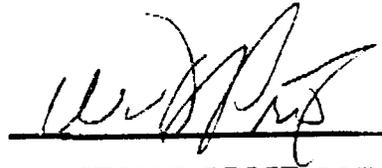

SUMNER SHAPIRO

IN THE MATTER OF CHRIST LOUIS ZOIS

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. Zois.

DATED: Brooklyn, New York

_____, 1995



WINSTON S. PRICE, M.D.

IN THE MATTER OF CHRIST LOUIS ZOIS, 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. Zois.

DATED: Roslyn, New York

January 5, 1995

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

EDWARD C. SINNOTT, M.D.

IN THE MATTER OF CHRIST LOUIS ZOIS. 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. Zois.

DATED: Syracuse, New York

6 June, 1995

William A. Stewart

WILLIAM A. STEWART, M.D.