



Board for Professional Medical Conduct

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

C. Maynard Guest, M.D.
Executive Secretary

June 16, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

German Zhitlovsky, M.D.
12348 West 82nd Place
Lenexa, Kansas 66215

RE: License No. 163179

Effective Date. 06/23/95

Dear Dr. Zhitlovsky,

Enclosed please find Order #BPMC95-126 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

Board for Professional Medical Conduct
New York State Department of Health
Empire State Plaza
Tower Building-Room 438
Albany, New York 12237-0756

Sincerely,

C. Maynard Guest, M.D.

Executive Secretary

Board for Professional Medical Conduct

Enclosure

cc: Daniel Guenzburger, Esq.

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

IN THE MATTER
OF
GERMAN ZHITLOVSKY, M.D.

SURRENDER
ORDER
BPMC #95-126

Upon the Application of GERMAN ZHITLOVSKY, M.D. (Respondent) to Surrender his/her license as a physician in the State of New York, which application is made a part hereof, it is

ORDERED, that the application and the provisions thereof are hereby adopted; it is further

ORDERED, that the name of Respondent be stricken from the roster of physicians in the State of New York; it is further

ORDERED, that this order shall take effect as of the date of the personal service of this order upon Respondent, upon receipt by Respondent of this order via certified mail, or seven days after mailing of this order via certified mail, whichever is earliest.

SO ORDERED.

DATED: 14 June 1995



CHARLES J. VACANTI, M.D.
Chairperson
State Board for Professional
Medical Conduct

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

IN THE MATTER
OF
GERMAN ZHITLOVSKY, M.D.

APPLICATION TO
SURRENDER
LICENSE

STATE OF KANSAS)
COUNTY OF *Johnson*) ss.:

GERMAN ZHITLOVSKY, M.D., being duly sworn, deposes and says:

On or about July 15, 1985, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 163179 by the New York State Education Department.

My current address is 12348 West 82nd Place, Lenexa, Kansas, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that I have been charged with four specifications of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A".

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York on the grounds that I admit guilt to the First and Fourth Specifications, and that I cannot successfully defend against the Second and Third Specifications, in full satisfaction of the Statement of Charges.

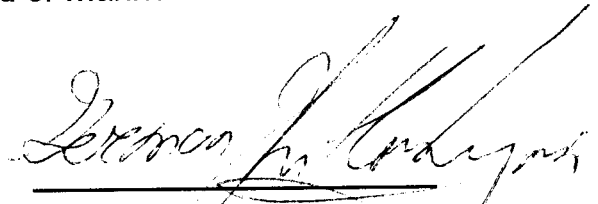
I hereby make this application to the State Board for Professional Medical

Conduct and request that it be granted.

I understand that, in the event that the application is not granted by the State Board for Professional Medical Conduct, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such application shall not be used against me in any way, and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct pursuant to the provisions of the Public Health Law.

I agree that, in the event the State Board for Professional Medical Conduct grants my application, an order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me.

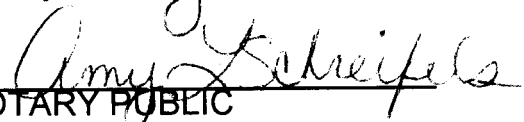
I am making this Application of my own free will and accord and not under duress, compulsion, or restraint of any kind or manner.



GERMAN ZHITLOVSKY, M.D.
Respondent

Sworn to before me this

11th day of May 1995


NOTARY PUBLIC
5-17-97

AMY L. SCHREIFELS
Notary Public - State of Kansas
My Appt. Expires 5-17-97

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

IN THE MATTER
OF
GERMAN ZHITLOVSKY, M.D.

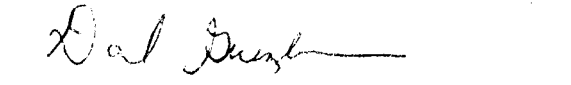
APPLICATION TO
SURRENDER
LICENSE

The undersigned agree to the attached application of the Respondent to surrender his license.

Date: 5.28, 1995


GERMAN ZHITLOVSKY, M.D.
Respondent


Date: June 6,, 1995


DANIFL GUENZBURGER
Assistant Counsel
Bureau of Professional
Medical Conduct

Date: June 12, 1995


KATHLEEN M. TANNER
Director
Office of Professional Medical Conduct

Date: 14 June, 1995


CHARLES J. VACANTI, M.D.
Chairperson
State Board for Professional Medical Conduct

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

-----X

IN THE MATTER : STATEMENT
OF : OF
GERMAN ZHITLOVSKY, M.D. : CHARGES

-----X

GERMAN ZHITLOVSKY, M.D., the Respondent, was authorized to practice medicine in New York State on July 15, 1985, by the issuance of license number 163179 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about January 6, 1994, in the Criminal Court of the City of New York, the Respondent plead guilty to the crime of criminal conspiracy in the fifth Degree in violation of Section 105.05 of the Penal Law (McKinney 1988). A person is guilty of criminal conspiracy in the fifth degree when, with intent that conduct constituting a felony be performed, he agrees with one or more persons to engage in or cause the performance of such conduct.

The Respondent was convicted for having agreed with two other individuals to wrongfully bill the New York State Medicaid Program for having provided Medicaid recipients with durable medical equipment which had not been actually prescribed by a physician, and in many cases, not delivered

to a Medicaid recipient. On or about and between November 15, 1990 and June 28, 1992, the Respondent provided the other two members of the conspiracy with pre-signed blank prescriptions which he knew they would use to order medical equipment for individuals that the Respondent had never treated. Through the above acts, the Respondent and the other two members of the conspiracy received in excess of one thousand dollars (\$1,000.00) to which they were not entitled. Respondent was sentenced to a conditional discharge and required to pay restitution in the amount of forty-five thousand dollars (\$45,000.00).

B. On or about April 8, 1994, Respondent submitted an application for medical licensure to the Missouri Board of Registration for the Healing Arts ("Board"). Respondent was asked the following question on the application: "Have you ever been arrested, fined, charged with or convicted of a crime, indicted, imprisoned or placed on probation, pled guilty or had sentence imposed?"

1. In Respondent's response to the above question, Respondent knowingly concealed with the intent to mislead the Board that he had been convicted of criminal conspiracy on January 6, 1994 as alleged in paragraph A.
2. On or about November 10, 1994, the Missouri Board denied Respondent's application for medical licensure

for various reasons including the reasons that Respondent had been previously disciplined by the New York State Board of Professional Misconduct in March, 1993 and that he had been convicted for criminal conspiracy as alleged in Paragraph A. The conduct that resulted in the Missouri Board refusing to grant Respondent's application for licensure would have constituted professional misconduct under various New York State laws, including but not limited to N.Y. Educ. Law Section 6530(9)(a)(i), ("Being convicted of committing an act constituting a crime under New York State law"). (McKinney Supp. 1995).

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

COMMITTING A CRIME

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(a)(i) (McKinney Supp. 1995), in that he has been convicted of an act constituting a crime under New York State Law, in that Petitioner charges:

1. The facts in Paragraph A.

SECOND SPECIFICATION

FRAUDULENT PRACTICE

Respondent is charged with professional misconduct by reason of practicing the profession fraudulently within the meaning of N.Y. Educ. Law Section 6530(2) (McKinney Supp. 1995), in that Petitioner charges:

2. The facts in Paragraphs B and B1.

THIRD SPECIFICATION

FALSE REPORTS

Respondent is charged with professional misconduct pursuant to N.Y. Educ. Law Section 6530(21) (McKinney Supp. 1995), by reason of willfully making and filing a false report, in that Petitioner charges:

3. The facts in Paragraphs B and B1.

FOURTH SPECIFICATION

LICENSE REFUSAL BY ANOTHER STATE

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(d) (McKinney Supp. 1995), in that a duly authorized professional disciplinary agency of another state refused to grant Respondent's application for

licensure, where the conduct that resulted in the license refusal would, if committed in New York State, constitute professional misconduct under the laws of New York, in that Petitioner charges:

4. The facts in Paragraphs B and B2.

DATED: February 16, 1995
New York, New York



CHRIS STERN HYMAN
Counsel
Bureau of Professional
Medical Conduct