



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

May 9, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Nathan Ianoscu, M.D.
8 Grant Street
Pleasantville, New York 10570

Frederick C. Zimmer
NYS Department of Health
ESP - Corning Tower, Rm. 2429
Albany, New York 12237

Timothy K. Gibbons, Esq.
Shapiro & Byrne, PC
220 Old Country Road
Mineola, New York 11501-4280

RE: In the Matter of Nathan Ianoscu, M.D.

Dear Dr. Ianoscu, Mr. Gibbons, and Mr. Zimmer:

Enclosed please find the Determination and Order (No.93-208) 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.

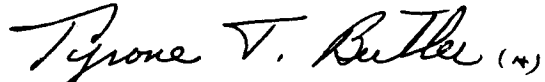
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified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


Tyrone T. Butler, Director
Bureau of Adjudication

TTB:lar

Enclosure

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

**IN THE MATTER
OF
NATHAN IONASCU, M.D.**

**ADMINISTRATIVE
REVIEW BOARD
DETERMINATION
AND ORDER
NO. BPMC 93 -208**

The Administrative Review Board for Professional Medical Conduct (hereinafter the "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 March 4, 1994¹ to review the Professional Medical Conduct Hearing Committee's December 27, 1993 Determination finding Dr. Nathan Ionascu (Respondent) guilty of professional misconduct. The Respondent requested the review through a Notice which the Review Board received on January 3, 1993. James F. Horan served as Administrative Officer to the Review Board. Timothy K. Gibbons submitted a brief for Dr. Ionascu on February 11, 1994. Frederick C. Zimmer submitted a reply brief on behalf of the Office of Professional Medical Conduct (Petitioner) on February 11, 1994 and Mr. Gibbons submitted a reply to the Petitioner on February 28, 1994.

¹ Drs. Price, Sinnott, and Stewart participated in the deliberations 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 majority concurrence of the Review Board.

HEARING COMMITTEE DETERMINATION

The Petitioner charged Dr. Ionascu, a pediatrician, with moral unfitness in the practice of medicine. The charges involved the Respondent's actions toward the mothers of two of his pediatric patients. The mothers are identified in this Determination as Mrs. A and Mrs. B.

The Hearing Committee found that the Respondent was guilty of moral unfitness in the practice of medicine for his conduct involving both Mrs. A and Mrs. B. The Hearing Committee found that the Respondent forced his attentions on both women, kissing Mrs. A on the mouth, and kissing Mrs. B on the shoulder after attempting unsuccessfully to kiss Mrs. B on the mouth. The Committee found the Respondent's actions were serious and that they constituted inappropriate and

unwelcome contact. A majority of the Committee voted to revoke the Respondent's license.

REQUESTS FOR REVIEW

The Respondent contends that the Revocation of Dr. Ionascu's license was inappropriate. The Respondent asks that the Administrative Review Board reconsider the penalty in light of the Respondent's value to the community as a pediatrician, his prior unblemished record and the Respondent's impairment by Adult Attention Deficit Disorder. In addition to brief, the Respondent has submitted affidavits to the Board which were not evidence before the Hearing Committee.

The Petitioner has asked the Board to dismiss the Respondent's appeal because the Respondent had not submitted the brief by February 2, 1994, thirty days from the date of the Respondent's Notice of Review. In the alternative, the Petitioner requests that the Review Board reject the affidavits appended to the brief which were not entered in the record at the hearing. Finally, the Petitioner asks that the Review Board sustain the Hearing Committee's Determination to revoke the Respondent's license to practice medicine in New York State.

REVIEW BOARD DETERMINATION

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

The Review Board denies the Petitioner's request dismiss the appeal. Public Health Law §230-c(4)(b) states that parties shall file briefs within thirty days from filing a Notice of

Review. The statute does not provide that the failure to file a brief constitutes an abandonment of the case. The Review Board has held previously that we will review a case when an appealing party does not submit a brief. In such a case, the Board will review the Hearing Committee's determination by relying upon the scope of review set out in Public Health Law §230-c(4)(b), that scope being whether the findings and conclusions are consistent with the determination and penalty and whether the penalty is appropriate. A party who does not file briefs or reply briefs in a timely fashion still proceeds at some risk, since the Review Board will not delay their consideration of a case to accommodate a late filing party. The Review Board schedules cases for deliberation in the assumption that the parties will submit briefs and reply briefs in a timely fashion, and a party filing briefs late takes the risk that the paper will not be before the Review Board at the time of our deliberations.

The Review Board has also stated previously, and our Administrative Officer advised the parties in this case by letter, that the Board will not consider evidence that was not before the Hearing Committee. The Board, therefore, did not consider the affidavits appended to the Respondent's brief, since those affidavits were not in evidence before the Hearing Committee.

The Review Board votes unanimously to sustain the Hearing Committee's Determination that Dr. Ionascu was guilty of moral unfitness in the practice of medicine. The Determination was consistent with the Committee's findings that Dr. Ionascu forced his attentions upon the mothers of two of his pediatric patients, at the Respondent's office, where the mothers had taken their children for medical treatment.

The Review Board votes unanimously to sustain the Hearing Committee's Determination to revoke Dr. Ionascu's license to practice medicine. The penalty is appropriate and is consistent with the Hearing Committee's Determination that the Respondent was guilty of moral unfitness in the practice of medicine.

ORDER

NOW, based upon this Determination, the Review Board issues the following

ORDER:

1. The December 27, 1993 Determination by the Hearing Committee for Professional Medical Conduct, finding Dr. Nathan Ionascu guilty of professional misconduct is sustained.
2. The Hearing Committee Determination to revoke Dr. Ionascu's license to practice medicine in New York State is sustained.

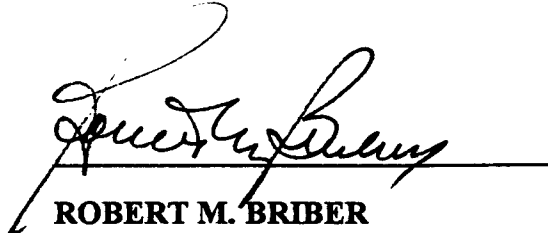
**ROBERT M. BRIBER
MARYCLAIRE B. SHERWIN
WINSTON S. PRICE, M.D.
EDWARD C. SINNOTT, M.D.
WILLIAM A. STEWART, M.D.**

IN THE MATTER OF NATHAN IONASCU, 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. Ionascu.

DATED: Albany, New York

Apr 29, 1994


ROBERT M. BRIBER

IN THE MATTER OF NATHAN IONASCU, M.D.

EDWARD C. SINNOTT, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Ionascu.


DATED: Roslyn, New York
May 2, 1994


EDWARD C. SINNOTT, M.D.

IN THE MATTER OF NATHAN IONASCU, M.D.

WINSTON S. PRICE, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Ionascu.

DATED: Brooklyn, New York
_____, 1994


WINSTON S. PRICE

IN THE MATTER OF NATHAN IONASCU, 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. Ionascu.

DATED: Malone, New York
4/29, 1994

Maryclaire B. Sherwin
MARYCLAIRE B. SHERWIN

IN THE MATTER OF NATHAN IONASCU, M.D.

WILLIAM A. STEWART, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Ionascu.

DATED: Syracuse, New York
27 April, 1994

William A Stewart
WILLIAM A. STEWART