



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

December 31, 1993

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Doina Maria Buzea, M.D.
42 Wayside Drive
White Plains, NY 10607

Andrew B. Bowman, Esq.
1804 Post Road East
Westport, Ct 06880

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

RE: In the Matter of Doina Maria Buzea, M.D.

Dear Dr. Buzea, Mr. Bowman and Mr. Guenzburger:

Enclosed please find the Determination and Order (No. 93-57) 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.

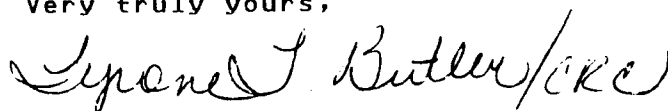
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified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

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:crc
Enclosure

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

-----X

IN THE MATTER	:	<u>ADMINISTRATIVE</u>
	:	<u>REVIEW BOARD</u>
OF	:	<u>DETERMINATION</u>
	:	<u>AND ORDER</u>
DOINA BUZEA, M.D.	:	<u>ARB NO.93-57</u>

-----X

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 July 6, 1993 to review the Professional Medical Conduct Hearing Committee's (Committee) April 27, 1993 Determination to revoke Dr. Doina Buzea's license to practice medicine in New York State. OPMC requested the review through a Notice which the Review Board received on May 14, 1993. James F. Horan served as Administrative Officer to the Review Board. Daniel Guenzburger, Esq. submitted a brief for OPMC on June 1, 1993. Andrew Bowman, Esq. submitted a response on Dr. Buzea's behalf on June 9, 1993.

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. Buzea 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, following a guilty plea, for causing a false statement to be made in a claim for a Medicare payment, a misdemeanor, in violation of Title 42 United States Code Section 1320a-7b(a)(1)(ii). The United States District Court for the District of Connecticut sentenced the Respondent to one year on probation and to pay a two thousand (\$2000.00) dollar fine. The Committee also found that the Respondent had entered into a consent order with the Connecticut Medical Examining Board, through which she agreed that if she applies for licensure in Connecticut, she shall be on probation for two years, with a monitor, and she shall not supervise individuals providing acupuncture or any other medical service for which she does not have specialized training. The Hearing Committee determined that the Respondent's conduct in Connecticut would constitute misconduct if committed in New York.

The Hearing Committee concluded that the Respondent's conduct constituted a serious breach of the public trust, that required a serious penalty, but which did not warrant revocation of her license to practice medicine. The Committee noted that they had serious concerns regarding the Respondent's trustworthiness in private practice. The Committee voted to place the Respondent on five years probation. Among the probationary terms, the Hearing Committee forbid the Respondent from participating in the Medicare or Medicaid programs, if she returns to private practice; required that the Medical Director of the Institution where the Respondent works must submit an annual report to OPMC concerning the Respondent's work; and provided that if the Respondent violated

the terms of probation, her license would be automatically revoked.

REQUESTS FOR REVIEW

The Office of Professional Medical Conduct has asked the Review Board to modify three terms of the Hearing Committee's penalty because the terms are beyond the scope of penalties permitted by Public Health Law Section 230-a or violate the provisions of Public Health Law Section 230(19) concerning the sanctions to be imposed for violations of probation. First, OPMC asks that the Review Board overturn the Hearing Committee's probation term forbidding the Respondent from participating in the Medicaid or medicare program. OPMC proposes that instead, the Review Board should impose a requirement that the Respondent must work in a supervised setting. Next, OPMC asks that the Review Board modify the provision which requires the Medical Director at the Respondent's place of employment to submit an annual report to OPMC concerning the Respondent's work. OPMC asks that instead, the Review Board order the Respondent to designate an individual at her place of employment to prepare an annual report. Such individual would be subject to approval by OPMC. Finally, OPMC asks that the Review Board to remove the condition from the penalty that provides that if the Respondent violates probation, her license will immediately be revoked. OPMC asks that the Review Board substitute a provision which states that if the Respondent violates probation, the Hearing Committee recommends that the Respondent's license be revoked.

The Respondent's counsel has submitted a response brief in which he agrees to all three modifications which OPMC has requested.

REVIEW BOARD DETERMINATION

The Review Board has reviewed the entire record from the hearing and the briefs which the parties have submitted. The Review Board sustains the Hearing Committee's Determination that Dr. Buzea was guilty of professional misconduct based upon her misdemeanor conviction in the United States District Court in the District of Connecticut.

The Review Board votes to sustain the Hearing Committee's Determination to place the Respondent on five years probation, but we vote to modify three provisions in the terms of the probation because the terms are not appropriate.

1. We overturn probation term (c), which appears on page 5 of the Hearing Committee Determination. The Committee's term (c) barred the Respondent from participating in the medicaid or medicaid programs if she returned to private practice. The Committee noted in their Determination that they had serious concerns about the Respondent's trustworthiness in private practice. The Review Board finds that the Hearing Committee does not have the authority under Public Health Law Section 230-a to prohibit a physician from participating in the Medicare or Medicaid programs. The Committee can, however, limit a Respondent's practice to a supervised setting during probation. We believe that such a penalty would address the Hearing Committee's

concern about the Respondent's trustworthiness. We vote, therefore, to amend the terms of probation to provide that the Respondent shall work in a supervised setting during the probationary period.

2. We vote to overturn probation term (e), which appears at page 5 of the Hearing Committee's Determination. That term requires the Medical Director of the Respondent's institution to submit an annual report to OPMC. The Review Board believes that the term is inappropriate because the Hearing Committee does not have jurisdiction over the Director of the Respondent's place of employment. The Committee can require that the Respondent designate a physician as a monitor or designate a physician to report on her practice to OPMC. The Review Board amends the Hearing Committee's penalty to provide that the Respondent shall designate a physician at her place of employment, subject to the approval of OPMC, to submit an annual report to OPMC concerning the quality of the Respondent's work and her areas of practice.

3. The Review Boards votes to overturn probation term (f), which appears on page 5 of the Hearing Committee's Determination. That term provides that the Respondent's license shall be immediately revoked if the Respondent violates the terms of probation. The Review Board finds this term inappropriate because Public Health Law Section 230(19) provides that a Respondent charged with violating probation is entitled to a hearing. The Hearing Committee in this case can recommend that if the Respondent is ever found guilty for violating the terms of

this probation, that the Respondent's license be revoked. The Review Board amends the Hearing Committee's Determination at page 5, paragraph (f), to provide that the Hearing Committee recommends that, if the Respondent is found to have violated these terms of probation, that her license be revoked.

ORDER

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

1. The Hearing Committee's April 27, 1993 Determination finding Doina Buzea, M.D. guilty of professional misconduct is sustained.
2. The Hearing Committee's Penalty placing the Respondent on five years probation is sustained, but the Review Board modifies conditions of probation (c), (e) and (f) as described in this Determination, for the reasons set out in this Determination.

ROBERT M. BRIBER

MARYCLAIRE B. SHERWIN

WINSTON S. PRICE, M.D.

EDWARD C. SINNOTT, M.D.

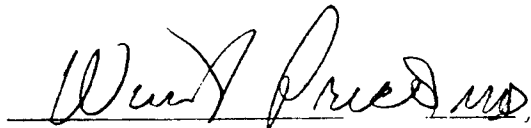
WILLIAM A. STEWART, M.D.

IN THE MATTER OF DOINA BUZEA, 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. Buzea.

DATED: Brooklyn, New York

December 4, 1993

A handwritten signature in cursive script, reading "Winston S. Price, M.D.", written over a horizontal line.

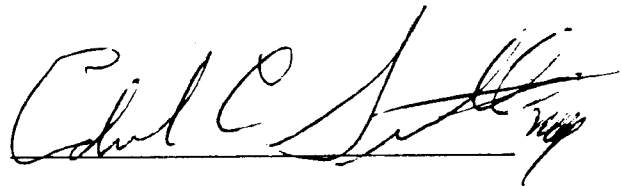
WINSTON S. PRICE

IN THE MATTER OF DOINA BUZEA, 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. Buzea.

DATED: Albany, New York

December 1, 1993

A handwritten signature in black ink, appearing to read "Edward C. Sinnott", written over a horizontal line. The signature is stylized and cursive.

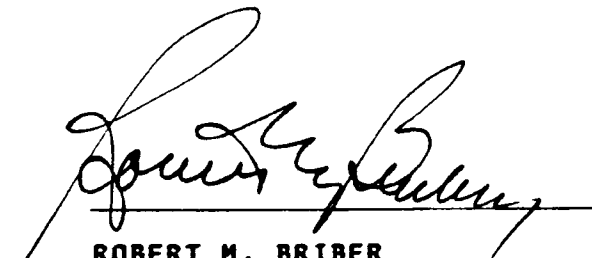
EDWARD C. SINNOTT, M.D.

IN THE MATTER OF DOINA BUZEA, 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. Buzea.

DATED: Albany, New York

12/1, 1993



ROBERT M. BRIBER

IN THE MATTER OF DOINA BUZEA, 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. Buzea.

DATED: Albany, New York

Dec. 2, 1993

Mary Claire B. Sherwin

MARYCLAIRE B. SHERWIN

RECEIVED
DEC 17 1993
NYS DEPT. OF HEALTH
DIVISION OF LEGAL AFFAIRS
BUREAU OF ADJUDICATION

IN THE MATTER OF DOINA BUZEA, 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. Buzea.

DATED: Albany, New York
, 1993



WILLIAM A. STEWART, M.D.