

**BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS**

FILED DEC 20 2004 KANSAS STATE BOARD OF HEALING ARTS

In the Matter of)
)
GERMAN ZHITLOVSKY, M.D.)
Kansas License No. 04-25399)
_____)

Docket No. 05-HA-31

FINAL ORDER FOLLOWING CONFERENCE HEARING

NOW, on this 11th day of December, 2004, comes on for conference hearing before the Kansas State Board of Healing Arts (“Board”) the Petition filed November 23, 2004, in the above-entitled matter.

Stacy L. Cook, Litigation Counsel, appears on behalf of the Petitioner Board. There are no other appearances.

WHEREUPON, Counsel for Petitioner presents Exhibits 1 through 4 and announces that the parties have reached a settlement agreement as follows:

1. License number 04–25399 issued to German Zhitlovsky, M.D. (“Licensee”) to practice medicine and surgery in the state of Kansas shall be immediately suspended.
2. Licensee will provide copies of the following documents to Counsel for Petitioner on or before January 11, 2005:
 - a. The complete applications referenced in paragraphs 22, 26, 27, 28, 29, 32, 35, 38, 41 and 47 of the Indictment filed March 26, 2003;
 - b. The letters referenced in paragraphs 23, 24 and 25 of the same Indictment;
 - c. The exclusion documents referenced in paragraphs 17, 18 and 19 of the same Indictment;
 - d. The statements referenced in paragraph 44 of the same Indictment.
3. Licensee will surrender his license to practice medicine and surgery in the state of Kansas after he has provided the aforementioned documents.

4. A presiding officer will be appointed by the Board for the purpose of issuing a Final Order to accept surrender of the Licensee's license.

5. Two years after the effective date of the surrender of license, Licensee is allowed to request that the Board consider, on its own motion, to stay the revocation and allow reinstatement of the License. However, the Board is under no obligation to grant the request for reinstatement.

6. Upon receipt for the documents referred to in paragraph 2 above, the Board will dismiss with prejudice the Petition filed in the District Court of Shawnee County, Kansas in case entitled "State Board of Healing Arts v. German Zhitlovsky", case number 04-C-001620.

7. Upon providing the documents referred to in paragraph 2 above, Licensee will dismiss with prejudice the Petition filed in the District Court of Shawnee County, Kansas in case entitled "German Zhitlovsky, M.D. v. State Board of Healing Arts", case number 04-C-001684.

After reviewing the agency record, hearing the statements of Counsel for the Petitioner and being otherwise duly advised in the premises, the Board finds and orders as follows:

A. Exhibits 1 through 4 should be admitted.

B. The agreement of the parties as specified in paragraphs 1 through 7 above should be approved and become the order of the Board.

C. The Motion for Continuance filed by Licensee on December 6, 2004 is moot.

IT IS SO ORDERED.

PLEASE TAKE NOTICE that this is a Final Order. A Final Order is effective upon service. A party to an agency proceeding may seek judicial review of a Final Order by filing a petition in the District Court as authorized by K.S.A. 77-601 *et seq.* Reconsideration of the Final Order is not a prerequisite of judicial review. A petition for judicial review is not timely unless filed

within 30 days following service of the Final Order. A copy of any petition for judicial review must be served upon the Board executive director at 235 South Topeka Boulevard, Topeka, Kansas 66603.

DATED this 20TH day of December 2004.

KANSAS STATE BOARD OF HEALING ARTS

 /s/
Lawrence T. Buening, Jr.
Executive Director