

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

**FILED**

JAN 19 1996

KANSAS STATE BOARD OF  
HEALING ARTS

**IN THE MATTER OF** )  
**The Application for** )  
**Reinstatement of License of** )  
 )  
**GERMAN ZHITLOVSKY, M.D.** )  
**Kansas License No. 4-25399** )  
\_\_\_\_\_ )

**Case No. 95-00113**

**FINAL ORDER**

**NOW ON THIS** 8th day of December, 1995, comes on for hearing the above-captioned case upon the applicant's Petition for Review of the Initial Order. Applicant appears in person and through his attorney, Debra A. Hopkins. The Board appears through Lori Miskel McNett, Associate Counsel. Having heard the arguments of counsel and having the record before it, the Board makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. The Presiding Officer's Findings of Fact, numbers one through forty-two which were submitted to the presiding officer following the hearing, and which were adopted by reference in the Initial Order from proposed findings submitted by counsel for the Board, are adopted as the findings of the Board.

2. Finding of Fact number forty-three of the Initial Order is amended as follows and is adopted as amended as the finding of the Board:

(43.) The presiding officer based its decision upon a concern for the applicant's honesty and ethical fitness demonstrated in his misrepresentations used to secure his license

and by his criminal actions of forgery and fraud. This lack of honesty and moral fitness remains a concern for the Board in that the applicant appears to continue to deceive himself as well as the Board (Confidential) In that regard, Dr. Zhitlovsky has failed to carry his burden to prove (Confidential) is sufficient to warrant an unrestricted license.

### CONCLUSIONS OF LAW

1. Conclusions of Law number one through twelve, and number fifteen of the Presiding Officer's Findings of Fact and Conclusions of Law which were submitted by counsel for the Board to the presiding officer following the hearing and which were adopted by reference in the Initial Order are adopted as the conclusions of the Board.

2. Conclusion of Law number thirteen is amended as follows, and is adopted as amended as the conclusion of the Board:

(13.) Applicant's repeated failures to disclose information to the Board demonstrates applicant's failure to understand the importance of honesty and integrity. He has shown that his underlying nature is substantially the same as it has always been, in that he continues to refuse to disclose his problems to the Board. Applicant's character is not substantially improved at this time to warrant reinstatement of an unrestricted license.

3. The Board's proposed Conclusion of Law number fourteen which was adopted from proposed findings submitted by counsel for the Board is amended as follows, and is adopted as amended as the conclusion of the Board:

(14.) The nature and seriousness of the misconduct in this case using his practice of the healing arts to defraud a government agency and repeated instances of fraudulent representations to obtain a medical license, is so severe that reinstatement of an unrestricted license is not warranted.

4. The Presiding Officer's Conclusion of Law number sixteen which was adopted

from proposed findings submitted by counsel for the Board is amended as follows, and is adopted as amended as the conclusion of the Board:

(16.) Applicant has not shown by clear and convincing evidence that he is (Confidential) sufficiently to warrant reinstatement of an unrestricted license.

5. The Presiding Officer's Conclusion of Law number seventeen is not adopted.

6. Conclusion of Law number eighteen of the Initial Order is amended to read as follows, and is adopted as amended as the conclusion of the Board:

(18.) The burden of establishing one's fitness for reinstatement of a license is even greater than when seeking an initial license because of the requirement of overcoming the findings as to the fitness to practice medicine. The Board's concern for the present moral fitness of the applicant, along with the short length of time since the license was surrendered, suggests that Dr. Zhitlovsky has not shown by clear and convincing evidence that he is sufficiently (Confidential) warrant reinstatement of an unrestricted license.

**IT IS, THEREFORE, ORDERED** that the license of Dr. Zhitlovsky be reinstated on a limited basis so that he is given an opportunity to (Confidential) sufficiently to warrant the public trust and an unrestricted license be issued. The following limitations are therefore imposed upon the license of Dr. Zhitlovsky:

a. (Confidential)

(Confidential)

b. (Confidential)

(Confidential)

c. (Confidential)

(Confidential)

d. Applicant is ordered to limit his practice of medicine to performing services under the supervision of a licensed physician approved by the Board. A request for approval of supervision may be submitted to the Board at any time and such approval will not be unreasonably withheld. Should applicant desire to change supervision, he must apply to the Board for approval of such change prior to performing any services which would constitute the practice of the healing arts.

e. Applicant is ordered to report to the Board each practice location and each change in practice location during the pendency of the limitations placed on his license by this Final Order.

f. Applicant may apply for modification of any limitation imposed by this Final Order on or after December 9, 1996.

**IT IS SO ORDERED.**

entered this 19<sup>th</sup> day of January, 1996.

  
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LAWRENCE T. BUENING, JR.  
Executive Director

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**FINAL ORDER**  
**German Zhitlovsky, M.D.**

**NOTICE REGARDING RELIEF**

This is a Final Order. It is effective upon service. A party may seek relief within thirty days after service by filing a petition for judicial review in the District Court. Any petition for reconsideration may be filed with the Board within fifteen days after service of the Order stating the grounds upon which relief is requested. A petition for reconsideration is not a prerequisite to seeking judicial review. Service of the petition for review or for reconsideration must be made upon the Executive Director for the Board of Healing Arts.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing **FINAL ORDER** was deposited in the United States mail, first class postage prepaid, on this 19<sup>th</sup> day of January, 1996, addressed to the following:

Debra Hopkins  
PO Box 45  
Butler, Missouri 64730

and the original was hand-delivered to:

Office of the Executive Director  
Kansas State Board of Healing Arts  
235 S. Topeka Blvd .  
Topeka, Kansas 66603-3068

  
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LAWRENCE T. BUENING, JR.