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BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of )  
)  
**DIANA L. CARVER, D.O.** )  
Kansas License No. 05-25857 )  
\_\_\_\_\_ )

Docket No. 11-HA 00002  
(confidential)

**EX PARTE EMERGENCY ORDER OF TEMPORARY SUSPENSION**

NOW on this 8<sup>th</sup> day of July, 2010, this matter comes before the Presiding Officer upon Petitioner's Motion for *Ex Parte* Emergency Order of Temporary Suspension. There are no other appearances.

The Presiding Officer has reviewed the Petition, Motion for *Ex Parte* Emergency Order of Temporary Suspension, and Exhibit 1 in this matter. Upon such review and after being fully apprised in the premises, the Presiding Officer finds, concludes and orders as follows:

1. This is a motion for an order pursuant to K.S.A. 65-2838(c) and 77-536(a)(1). Under those statutes, the Presiding Officer may issue an order without notice and hearing, and may temporarily suspend a license's license if the Presiding Officer finds there is an imminent danger to the public health, safety, or welfare.
2. The Petition in the above-captioned case alleges that Licensee has committed acts and conduct in violation of the Kansas Healing Arts Act with respect to three (3) patients.
3. Specifically, Petitioner alleges Licensee violated K.S.A. 65-2836(b), as further defined by:

- a. K.S.A. 65-2837(a)(1), for one or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the Board;
- b. K.S.A. 65-2837(a)(2), for repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the Board;
- c. K.S.A. 65-2837(a)(3), for a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice the healing arts;
- d. K.S.A. 65-2837(b)(23), for prescribing, dispensing, administering or distributing a prescription drug or substance, including a controlled substance, in an excessive, improper or inappropriate manner or for other than a valid medical purpose, or not in the course of the licensee's professional practice;
- e. K.S.A. 65-2837(b)(24), for repeated failure to practice healing arts with that level of care, skill, and treatment which is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances; and
- f. K.S.A. 65-2837(b)(25), for failure to keep written medical records which accurately describe the services rendered to the patient, including patient histories, pertinent findings, examination results and test results.

4. In treating Patient #2, Petitioner also alleges that Licensee violated K.S.A. 65-2836(k), for violation of any lawful rule or regulation by the Board. Specifically, Petitioner alleges Licensee violated K.A.R. 100-23-1 regarding the treatment of obesity with controlled substances.

5. In treating Patients #1, #2 and #3, Petitioner also alleges that Licensee violated K.S.A. 65-2836(k), for violation of any lawful rule or regulation by the Board. Specifically, Petitioner alleges Licensee violated K.A.R. 100-24-1, regarding the adequacy of patient records.

6. Petitioner's motion requests an emergency temporary suspension of Licensee's license to practice osteopathic medicine and surgery.

The motion for an emergency order in the above captioned case incorporates by reference the Petition filed in this matter and included Exhibit 1 which is the Affidavit and Consultant Review Reports of Jon C. Parks, M.D. regarding the three (3) patients upon which the Petition's allegations are based.

#### **FINDINGS OF FACT**

7. Diana L. Carver, D.O.'s last known mailing address to the Board is: (confidential)  
(confidential) , Topeka, Kansas 66614.

8. Licensee is or has been entitled to engage in the practice of osteopathic medicine and surgery in the State of Kansas, having been issued License No. 05-25857 on approximately August 12, 1995, and having last renewed such license on approximately September 30, 2009.

9. At all times relevant to the allegations set forth in the Petition and Motion, Licensee has held a current and active license to engage in the practice of osteopathic medicine and surgery in the State of Kansas.

10. Licensee presently has an active and unrestricted license to practice osteopathic medicine and surgery in the State of Kansas.

11. The Presiding Officer finds that based on the allegations in the Petition and the opinions set forth by Dr. Parks in Exhibit 1, there is cause to believe Licensee's care and treatment of the three (3) patients was grossly negligent; Licensee prescribed dangerous dosages and combinations of controlled substance medications to each patient, and Licensee failed to maintain adequate medical records for each patient.

12. The Presiding Officer further finds that there is adequate evidence demonstrating that due to the nature of the violations and the potential for harmful or deadly consequences to Licensee's patients, Licensee is an imminent danger to the public health and safety.

### **CONCLUSIONS OF LAW**

13. The Presiding Officer concludes that there is cause to believe that grounds exist under K.S.A. 65-2836, as alleged in the Petition, for disciplinary action against Licensee's license to practice osteopathic medicine and surgery.

14. The Presiding Officer concludes there is adequate evidence to emergently suspend Licensee's license on a temporary basis pursuant to K.S.A. 65-2838(c) in order to protect the public health and safety until a formal hearing on the Petition can be held.

**IT IS THEREFORE ORDERED** that the license of Diana L. Carver, D.O. is hereby immediately suspended.

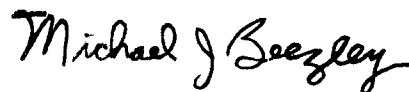
**IT IS FURTHER ORDERED** that Board counsel shall serve this order in the manner provided by law, and shall complete and file proof of service of the same.

**PLEASE TAKE NOTICE** that a hearing on this matter will be scheduled as soon as practicable at the Board offices, 235 South Topeka Boulevard, Topeka, Kansas. The issue to be determined is whether the emergency order of suspension should remain in place, be modified or terminated. A Notice of Hearing will be issued.

**PLEASE TAKE NOTICE** that this is an emergency order. An emergency order is effective when rendered. A party to an agency proceeding may seek judicial review of an emergency order by filing a petition in District Court as authorized by K.S.A. 77-601 *et seq.* A petition for judicial review is not timely unless filed within 30 days following service of the order. A copy of any petition for judicial review must be served upon the Board's Executive Director at 235 South Topeka Boulevard, Topeka, Kansas 66603.

Dated this 8<sup>th</sup> day of July, 2010.

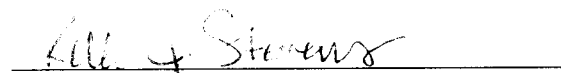
**Kansas State Board of Healing Arts**



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Michael J. Beezley, M.D.  
Presiding Officer

Prepared by:



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Kelli J. Stevens #16032  
Litigation Counsel  
Janith A. Lewis #18115  
Associate Litigation Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603  
(785) 296-7413

**CERTIFICATE OF SERVICE**

I, hereby certify that I served a true and correct copy of the above and foregoing **Ex Parte Emergency Order of Temporary Suspension** via United States mail, first class, postage prepaid on the 8<sup>th</sup> day of July, 2010 to the following:

Diana L. Carver, D.O.  
(confidential)  
Topeka, Kansas 66614

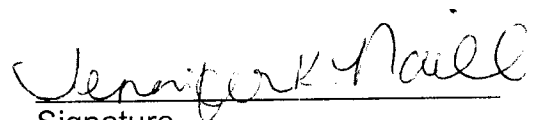
and a copy was hand-delivered to:

Kelli J. Stevens  
Litigation Counsel  
Janith A. Lewis  
Associate Litigation Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603

Katy Lenahan  
Licensing Administrator  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603

and the original was filed with the office of:

Kathleen Selzler Lippert  
Executive Director  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603

  
Signature