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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)	
)	Docket No.: 21-HA00031
Charles W. Gibbs, M.D.)	
Kansas License No. 04-32563)	

ORDER STAYING INDEFINITE SUSPENSION

On October 14, 2022, the parties appeared before the Kansas State Board of Healing Arts (“Board”) for a Formal Hearing on Respondent’s Motion to Terminate or Stay the Indefinite Suspension and Request for Hearing (“Motion to Stay”), filed Sept. 19, 2022, by Charles Gibbs, M.D. (“Dr. Gibbs” or “Licensee”), through counsel.¹ Todd Hiatt, Litigation Counsel, appeared to present the position of the Disciplinary Panel #35 of the Board. Licensee appeared in person, and through counsel Kelli Stevens of Forbes Law Group, LLC.

Under the authority granted to the Board by the Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*, and in accordance with the provisions of the Kansas Administrative Procedure Act, (“KAPA”), K.S.A. 77-501 *et seq.*, the Board enters this Order. After reviewing the entire agency record, hearing the arguments of the parties, and being duly advised in the premises, the Board makes the following findings, conclusions, and orders.

PROCEDURAL HISTORY

At its August 12, 2022, Board meeting the Board approved the Consent Order for Licensee’s violations of the Kansas Healing Arts Act, specifically K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(16), in that Licensee committed improper sexual contact with a patient that exploited the licensee-patient relationship; and K.S.A. 65-2837(b)(25), in that Licensee failed to keep written medical records that accurately describe the services rendered to the patient, including patient histories, pertinent findings, examination results and test results. The Consent Order constitutes the Board’s Final Order. *See* Consent Order, ¶11. The Consent Order indefinitely suspended Licensee’s license to practice medicine and surgery in Kansas for a period of at least

¹ While originally scheduled and noticed for a Conference Hearing, upon Dr. Gibb’s unopposed request, this matter was converted to a Formal Hearing under the Kansas Administrative Procedure Act, solely to allow for brief testimony from **CONFIDENTIAL** at the Board meeting regarding the nature and severity of the original misconduct and **CONFIDENTIAL**. *See Respondent’s Unopposed Motion to Convert Conference Hearing to a Formal Hearing*, filed Oct. 4, 2022; *Journal Entry Granting Motion and Converting Conference Hearing to a Formal Hearing*, filed Oct. 10, 2022.

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not less than 30 days, required Licensee to continue and successfully complete **CONFIDENTIAL**
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Under ¶39 of the Consent Order, Licensee was permitted to present evidence at the August 12, 2022, Board meeting and request to stay the indefinite suspension. Under the terms of the Consent Order, Licensee's indefinite suspension may be terminated or stayed only upon Licensee demonstrating to the Board that such action is warranted under the eight factors to be considered, as articulated in *Vakas v. Kansas Bd. of Healing Arts*, 248 Kan. 589 (1991).

At the August 12, 2022, Conference Hearing on the Motion to Stay, the Board accepted into evidence Licensee's Exhibits A-L, heard testimony from Licensee, and the Board had an opportunity to question him. After consideration of the entire agency record, oral arguments, testimony of Dr. Gibbs, and after deliberation and being duly advised on the premise, the Board verbally issued its decision denying the Motion to Stay. The Board found a stay or termination of his suspension after only 30 days was not warranted under the *Vakas* factors, and Dr. Gibb's rehabilitation at the time of the hearing did not outweigh the severity of the original misconduct. A Journal Entry Denying the Motion to Stay Indefinite Suspension, reflecting the Board's decision, was filed on Sept. 12, 2022. See *Journal Entry Denying Motion to Stay Indefinite Suspension*, filed Sept. 12, 2022. There was no time limitation on when Dr. Gibb's could again request the Board stay or terminate his indefinite suspension. *Id.*

On September 19, 2022, Dr. Gibbs filed a second Motion to Terminate or Stay the indefinite suspension of his license. On October 7, 2022, Disciplinary Panel #35, through Litigation Counsel, filed a Response to Dr. Gibb's Motion to Terminate or Stay.

FINDINGS OF FACT

1. The Board incorporates herein by reference, ¶¶1-61 of the Consent Order in this matter.
2. On October 14, 2022, the parties appeared before the Board for a Formal Hearing on Respondent's Motion to Terminate or Stay the Indefinite Suspension and Request for Hearing filed Sept. 19, 2022.

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- Dr. Gibbs is presently competent to practice.

APPLICABLE LAW

K.S.A. 65-2801 states the purpose of the healing arts act:

Recognizing that the practice of the healing arts is a privilege granted by legislative authority and is not a natural right of individuals, it is deemed necessary as a matter of policy in the interests of public health, safety and welfare, to provide laws and provisions covering the granting of that privilege and its subsequent use, control and regulation to the end that the public shall be properly protected against unprofessional, improper, unauthorized and unqualified practice of the healing arts and from unprofessional conduct by persons licensed to practice under this act.

“The whole purpose and tenor of the healing arts act is the protection of the public against unprofessional, improper, unauthorized, and unqualified practice of the healing arts. The goal is to secure to the people the services of competent, trustworthy practitioners.” *Kansas State Bd. Of Healing Arts v. Foote*, 200 Kan. 447, 453, 436 P.2d 828, 833 (1968).

Under the terms of the Consent Order, Licensee’s indefinite suspension may be terminated or stayed only upon Licensee demonstrating to the Board that such action is warranted under the eight factors to be considered, as articulated in *Vakas v. Kansas Bd. of Healing Arts*, 248 Kan. 589 (1991). The eight factors summarized are: (1) present moral fitness; (2) consciousness of the wrongful conduct; (3) extent of rehabilitation; (4) nature and seriousness of the original misconduct; (5) conduct subsequent to the discipline; (6) the time elapsed since the original discipline; (7) character, maturity, and experience at the time of original discipline; and (8) present competence in the professional skills. *Id.* at 600.

CONCLUSIONS OF LAW

Dr. Gibbs's license to practice medicine and surgery was previously indefinitely suspended, and he bore the burden of establishing a stay or termination of such suspension was warranted under the *Vakas* factors. The majority of Board members determine he has met that burden. Three Board members' dissent.²

Present moral fitness.

Dr. Gibbs has improved his present moral fitness over the course of his rehabilitation. Dr.

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Consciousness of the wrongful conduct and disrepute his conduct has brought the profession.

Dr. Gibbs demonstrates consciousness of his wrongful conduct. **CONFIDENTIAL**

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Extent of rehabilitation.

Dr. Gibbs has engaged in substantial rehabilitation. At the time of the formal hearing Dr

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Seriousness of the original misconduct.

The original misconduct by Dr. Gibbs is severe and violated the fiduciary duty owed to patients. **CONFIDENTIAL**

² Dr. Durrett, Dr. Koontz, and Dr. DeGrado.

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Conduct subsequent to discipline.

Since the imposition of the indefinite suspension, Dr. Gibbs has continued in his ^{CONFIDENTIAL} rehabilitation. **CONFIDENTIAL**

Time that has elapsed since original discipline.

As of the date of this Order, it has been 94 days since the imposition of the indefinite suspension.

Character, maturity, and experience at the time of revocation.

At the time of indefinite suspension, Dr. Gibbs had been a practicing physician for decades. His serious violations of the Kansas Healing Arts Act, and imposition of the indefinite suspension, occurred when he was a seasoned medical professional.

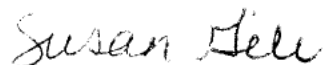
Present competence.

Dr. Gibbs' clinical competence as a physician is not in question. He is presently competent to practice medicine and surgery.

ORDER

IT IS SO ORDERED that the Motion to Stay is **GRANTED** and the indefinite suspension of Licensee's license to practice medicine and surgery in Kansas is **STAYED** effective the date of this filing, subject to all other terms and conditions of the Consent Order, approved by the Board on August 12, 2022.

KANSAS STATE BOARD OF HEALING ARTS



Susan Gile
Acting Executive Director

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NOTICE OF APPEAL RIGHTS

PLEASE TAKE NOTICE that this is a Final Order. A Final Order is effective upon service, and service of a Final Order is complete upon mailing. Under K.S.A. 77-529, parties may petition the Board for Reconsideration of a Final Order within fifteen (15) days following service of the final order. Additionally, 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 a Final Order is not a prerequisite to 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 Susan Gile, Acting Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing was served this 14th day of November 2022 by depositing the same in the United States Mail, first-class postage prepaid, and via email addressed to:

Charles W. Gibbs, M.D.

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Licensee

Kelli Stevens
Matt Chiasson
Forbes Law Group, LLC
6900 College Boulevard, Suite 840
Overland Park, KS 66211
kstevens@forbeslawgroup.com
mchiasson@forbeslawgroup.com
Attorneys for Licensee

And a copy was hand delivered to:

Todd Hiatt, Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, KS 66612
todd.hiatt@ks.gov

Compliance Coordinator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, KS 66612

Licensing Administrator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, KS 66612

and the original filed with the office of the Executive Director.

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C. W. Gibbs - COCIL
Staff Member