

BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

IN THE MATTER )  
 )  
 OF )  
 )  
 LEROY ALCOX, JR., M.D. )  
 Kansas License No. 11003, )  
 \_\_\_\_\_ )

RECEIVED  
1990  
Case No: 87-DC-0106  
KANSAS STATE BOARD OF  
HEALING ARTS

**FINAL ORDER**

This matter comes on for prehearing conference on this 11th day of August, 1990, before the Kansas State Board of Healing Arts ("Board"). Board members present are: Franklin Bichlmeier, M.D., President; Donald B. Bletz, M.D.; Cameron D. Knackstedt, D.O.; Mark J. Hatesohl, D.C.; John P. White, D.O.; P. Tom Greene, D.C.; Glenn J. Kerbs; Irwin Waxman, DPM; Jimmy Buller, D.O.; Joseph Philipp, M.D.; Graciela Marion; Kenneth Wedel, M.D.; and Ronald J. Zoeller, D.C. Petitioner Kansas State Board of Healing Arts appears by and through its attorney, Steve A. Schwarm, Litigation Counsel. Licensee appears in person and is not represented by legal counsel.

The Board having been advised and presented copies of the Petition and Notice of Prehearing Conference and has determined that statutory notice of the proceedings and the possibility of conversion of these proceedings and possibility of default have been served on Respondent in compliance with the Kansas Administrative Procedure Act. Pursuant to a Motion from Mr. Schwarm, this panel converts pursuant to K.S.A. 77-506 to a full

adjudicative hearing. This Board notes, Mr. Schwarm, pursuant to request of the Board, did communicate to them the factual information contained in the official Board file of Leroy Alcox, Jr., M.D. prior to this prehearing conference.

Mr. Schwarm, as a preliminary matter, offers a Motion to Dismiss both counts of the Disciplinary Petition without prejudice. Motion as offered is accepted. The Board notes Dr. Alcox voluntarily offers to amend the status of his license from exempt to inactive. Thereupon, the Board having examined its official file, heard the arguments of counsel and reviewing the record made, the following findings of fact and conclusions of law are made and entered.

#### FINDINGS OF FACT

1. Licensee has been issued license number 4-11003 by the Kansas State Board of Healing Arts. Respondent was at the time of the incidents as set forth in the Disciplinary Petition and still is a licensed physician to engage in the healing arts in the State of Kansas.

2. Disciplinary Petition in this case was filed September 26, 1988 with the Board. Disciplinary Petition in the case reflects two counts or alleged violations of the Kansas Healing Arts Act. That on September 20, 1977, Licensee was charged by the Board of New Mexico Medical Examiners with failing, refusing and neglecting to follow the administrative procedures required for good moral practice in that Licensee did not complete 1,080 hospital records. Licensee's license to practice medicine and surgery in the state

of New Mexico was revoked on November 28, 1977. According to the official Board file, Dr. Alcox had a Disciplinary Petition filed on May 15, 1978 in the state of Kansas to revoke the license of Dr. Alcox on the revocation of his New Mexico license. Furthermore, the Board file reflects that the Board voted to revoke Dr. Alcox's license on May 13, 1978 and again on June 16, 1978 and such motion was carried. Based on the legal principle of res judicata and laches which normally does not operate against a State however is deemed applicable to this administrative proceeding in that the State has respectfully requested that the count as set forth in the most recent Disciplinary Petition be dismissed without prejudice.

The second count of the September, 1988 Petition concerns itself with the Licensee being charged and convicted of three counts of manufacturing, delivering or possessing with the intent to manufacture or deliver less than 50 grams of a mixture containing controlled substance Oxycodone in the compound Percodan. By Consent Order dated April 16, 1988, Department of Licensing and Regulation of the Board of Medicine of the State of Michigan revoked Licensee's license to practice medicine in the State of Michigan. However, on July 13, 1990, by an Opinion Order issued by an Administrative Law Judge that indicated "the evidence is clear and convincing that Dr. Alcox is of good moral character, in the sense that he can be trusted to practice within the legal norms if relicensed and he can be expected to practice safely and skillfully if reinstated in limited capacity and without the freedom to prescribe narcotics or engage in private practice and

that the public interest is served by recognizing his rehabilitation." Dr. Alcox advised the Board that the Department of Licensing and Regulation of the Board of Medicine of the State of Michigan rejected the position of the Administrative Law Judge and that Dr. Alcox license to engage in the practice of medicine in Michigan remains revoked.

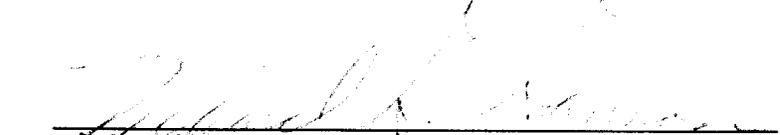
THEREFORE, pursuant to a Motion duly made, seconded and unanimously passed, State's Motion to Dismiss without Prejudice both counts is accepted. Whereupon, pursuant to a voluntarily act of Dr. Alcox to amend his status from exempt to an inactive license in the State of Kansas is acted upon favorable and such change of status is hereby noted.

IT IS THEREFORE ORDERED AND DECREED BY THE BOARD the actions against Licensee as set forth in Disciplinary Petition of September 26, 1988 are hereby dismissed without prejudice.

This Order is effective upon service pursuant to K.S.A. 77-530. Any party within 15 days after service of this Final Order may file a Petition for Reconsideration pursuant to K.S.A. 77-529.

IT IS SO ORDERED THIS 17 DAY OF AUGUST, 1990.

KANSAS STATE BOARD OF HEALING ARTS

  
Richard G. Gannon  
Executive Director

Prepared and Approved by:

  
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Steve A. Schwarm  
Litigation Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Blvd.  
Topeka, Kansas 66603

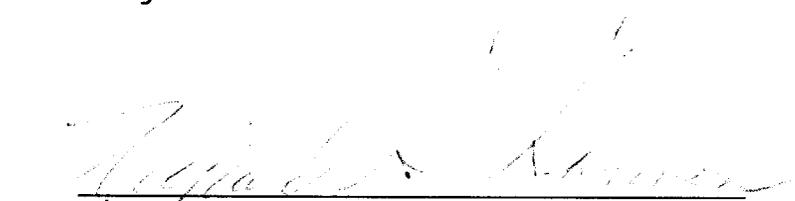
**CERTIFICATE OF SERVICE**

This is to certify that a copies of the Final Order was served by depositing same in the United States Mail, first class postage prepaid, this 17 day of August, 1990, to:

Leroy Alcox, Jr., M.D.  
4796 N. River Road  
Freeland, MI 48623

and a copy was hand-delivered to:

Steve A. Schwarm  
Litigation Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Blvd.  
Topeka, Kansas 66603

  
\_\_\_\_\_  
Richard G. Gannon