

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED

AUG 06 2010

KS State Board of Healing Arts

In the Matter of)
)
Hampton Anderson III, D.O.)
Kansas License No. 05-24017)
_____)

Docket No. 11-HA00010

EX PARTE EMERGENCY ORDER OF TEMPORARY SUSPENSION

NOW on this 6th day of August, 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 Exhibits 1 and 2 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 77-537(a)(1). Under these two statutes, the Presiding Officer may issue an order without notice and hearing, and may temporarily suspend a licensee'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.
3. Specifically, Petitioner alleges that Licensee committed acts in violation of the Kansas Healing Arts Act, K.S.A. 65-2836, including but not limited to:
 - a. K.S.A. 65-2836(b), Licensee committed an act of unprofessional

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conduct as further defined by K.S.A. 65-2837(b)(16), commission of any act of sexual abuse, misconduct or other improper sexual conduct, which exploits the licensee-patient relationship, with a patient.

b. K.S.A. 65-2836(b), Licensee committed an act of unprofessional conduct as further defined by K.S.A. 65-2837(b)(12), conduct likely to deceive, defraud or harm the public.

c. K.S.A. 65-2836(f), Licensee has willfully or repeatedly violated this act or any rules or regulations adopted pursuant thereto.

d. (confidential)

(confidential)

e. K.S.A. 65-2836(s), disciplinary actions have been taken against the Licensee by a health care facility for acts or conduct which would constitute grounds for disciplinary action under K.S.A. 65-2836.

f. K.S.A. 65-2836(y), Licensee has failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a and amendments thereto

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

5. The motion for an emergency order in the above captioned case incorporates by reference the Petition filed in this matter and included Exhibits 1 and 2. Exhibit 1 is the Affidavit (confidential) and photographs of text messages taken by

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(confidential)

regarding the one (1) patient upon which the

Petition's allegations of sexual misconduct are based. Exhibit 2 is the Affidavit of Ms. Teri Hudson, of Sisters of Charity of Leavenworth Healthcare System, upon which the Petition's allegations that Licensee practiced outside the scope of his licensure designation are based.

6. Petitioner further requests a protective order to be entered into to protect all confidential information under (confidential) 65-2839a(d) and K.S.A. 65-2898a.

FINDINGS OF FACT

7. Licensee's last known mailing address is: (confidential) McAlester, Oklahoma 74501.

8. At all times relevant to the allegations as set forth below, Licensee is or has been entitled to regularly engage in the practice of osteopathic medicine and surgery by licensure in the State of Kansas pursuant to K.S.A. 65-2809(h)(1) and K.S.A. 65-2870, having been issued Kansas License Number 05-24017 on or about April 11, 1992.

9. Licensee currently holds an unrestricted federally active Kansas license to regularly engage in the practice of osteopathic medicine and surgery, having last renewed his license on or about August 17, 2009. Licensee does not hold medical licensure in any other state.

10. The Presiding Officer finds that based on the allegations in the Petition and the supporting documents including Exhibit 1, there is cause to believe that

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Licensee committed acts of unprofessional conduct; Licensee committed acts of unprofessional conduct by exploiting the licensee-patient relationship when he committed three (3) separate acts of sexual misconduct, including one act of sexual misconduct that was not consensual, with one (1) patient during the course of treatment at the Choctaw Tribal Nation Clinic in Idabel, Oklahoma, and by maintaining an ongoing cellular text message dialogue with the aforementioned patient, which included text messages of an overtly sexual nature and others of a non-professional nature.

11. The Presiding Officer finds that based on the allegations in the Petition and the supporting documents, including Exhibit 2, there is cause to believe that Licensee violated the scope of his federally active license to regularly engage in the practice of osteopathic medicine and surgery when he practiced medicine at Providence Care Living Water Clinic from approximately May 17, 2010 to July 8, 2010.

12. (confidential)

(confidential)

13. The Presiding Officer further finds that there is adequate evidence demonstrating that due to the nature of the violations and the potential for harm Licensee's continued practice of the healing arts under the authority of his Kansas license constitutes an imminent and immediate danger to the public health and safety

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pursuant to K.S.A. 65-2838(c) and that use of emergency proceedings are warranted under K.S.A. 77-536(a)(1) due to the immediate danger to the public health, safety or welfare presented by Licensee's continued practice.

POLICY REASONS

The policy of regulating the practice of healing arts in the State of Kansas is set forth in K.S.A. 65-2801:

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.

CONCLUSIONS OF LAW

14. 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.

15. The Presiding Officer concludes that a protective order should be entered to protect all confidential information under (confidential) 65-2839a(d) and K.S.A. 65-2898a.

16. The Presiding Officer concludes that there is adequate evidence to emergently suspend Licensee's license on a temporary basis pursuant to K.S.A. 77-536(a)(1) and K.S.A. 65-2838(c) in order to protect the public health and safety until a formal hearing on the Petitioner can be held.

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IT IS THEREFORE ORDERED that the license of Hampton Anderson III, D.O. is hereby immediately suspended.

IT IS FURTHER ORDERED that a protective order be entered to protect all confidential information under _____ (confidential) _____, 65-2839a(d) and K.S.A. 65-2898a.

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

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.

IT IS SO ORDERED.

Dated this 6th day of August, 2010.

Kansas State Board of Healing Arts



Presiding Officer

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CERTIFICATION OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the foregoing **EX PARTE EMERGENCY ORDER OF SUSPENSION** by United States mail, postage prepaid, on this 6th day of August, 2010, to the following:

Hampton Anderson III, D.O.

(confidential)

McAlester, OK 74501

and a copy was hand-delivered to:

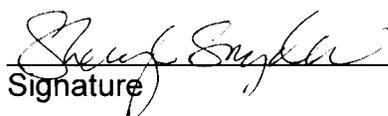
Julia A. Mowers
Associate Litigation Counsel
Kelli J. Stevens
Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603

and

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 66603-3068



Signature

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