

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED

CAB

OCT 24 2007

In the Matter of)
Dennis Arthur, PT)
)
Kansas License No. 11-00768)
_____)

KS State Board of Healing Arts

Docket No. 07-HA00047

FINAL ORDER

NOW ON THIS 20th Day of October, 2007, this matter comes before the Board to review the Initial Order issued by Presiding Officer Mark A. McCune, M.D. Kathleen Selzler Lippert and Dan Riley appear for Petitioner. Respondent does not appear.

Having the record before it, the Board adopts the Initial Order, and makes the following findings of fact, conclusions of law and order:

1. The present disciplinary proceeding follows a related matter of the Board involving Respondent, Docket No. 05-HA-0003. In that order, the Presiding Officer considered whether Respondent had sufficiently completed monitoring requirements established in a December 2004 Consent Order. The Board approved Susan Willey, P.T. as monitor to review patient records and to meet with Respondent regarding patient boundary issues. The Presiding Officer issued a Final Order dated June 9, 2006, finding that Respondent had satisfied his responsibilities regarding his encounters with female patients, and the requirements of having a chaperone and maintaining a log of those encounters was terminated. The Presiding Officer also found that the monitor's review of Respondent's documentation indicated additional review of five specific charts. Respondent was ordered to identify the charts for Board counsel so that a copy of the original could be obtained from the facility owning the record. The current proceeding is based upon allegations arising out of the review of the original records.

2. The parties do not dispute that Respondent altered the documents that he submitted to Ms. Willey for her review.

3. The Petition alleges that Respondent billed for services that were not performed. The Board finds that the records altered contained information that was not true, and that billing could theoretically have occurred as a result of the entries in those records. However, there is no evidence that billing actually occurred as a result of the alterations, and thus the allegation that Respondent submitted a fraudulent claim form or statement is not sustained.

4. Respondent established that he did not have direct access to completed patient records located in the facility's record department. Rather, his supervisor obtained copies of the originals and gave them to Respondent. He argues that he did not alter actual patient records, but rather that he made the changes to copies of actual records only to show Ms. Willey that he had learned from her how to improve his documentation. The Board finds that Ms. Willey was not advised of this, and she believed that she was reviewing copies of actual patient records.

5. The Board finds that at least two of the altered documents were maintained in the facility records department, and were maintained as original records. There is no credible testimony that would establish how the altered records found their way to the files. The Board is left with the options of believing Respondent was not truthful regarding his access to those records, or that Respondent altered the records prior to their being placed in the facility's original patient file.

6. The Board finds that under either of the two options, Respondent altered records inappropriately, and that it is reasonable to predict that this conduct would likely deceive the public. The Board concludes that this is unprofessional conduct, as established at K.S.A. 65-2912 and as defined at K.A.R. 100-29-12(a)(18).

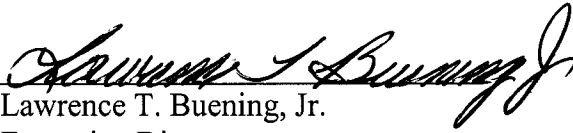
7. The Board finds that Respondent should be censured for engaging in unprofessional conduct. The Board further finds that Respondent has engaged in a learning process, and has paid the costs of that learning process. As his license was cancelled after this proceeding began, imposition of a limitation, suspension or revocation would serve no purpose. It is expected that at any such time as Respondent seeks reinstatement of his Kansas license, he will establish to the Board that he has been sufficiently rehabilitated to warrant the public trust.

IT IS, THEREFORE, ORDERED that Dennis B. Arthur, P.T. is hereby censured.

PLEASE TAKE NOTICE that this is a final order. A final order is effective upon service. 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 the Board's Executive Director at 235 SW. Topeka Blvd., Topeka, KS 66603.

Dated this 24th day of October, 2007.

Kansas State Board of Healing Arts


Lawrence T. Buening, Jr.
Executive Director

Certificate of Service

I certify that a true copy of the foregoing Final Order was served this 24th day of October, 2007, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Dennis B. Arthur, R.T.
5815 Carter Ave
Merriam, KS 66203

and

N. Larry Bork
Goodell, Stratton, Edmonds & Palmer, LLP
515 S. Kansas Avenue
Topeka, KS 66603

And a copy was hand-delivered to the office of

Kathleen Selzler Lippert
Dan Riley
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, KS 66603

