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KS State Board of Healing Arts

**BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS**

In the Matter of)	
RICHARD J. BENE, Jr., M.D.)	
)	
Kansas License No. 04-24860)	Docket No. 09-HA00119
_____)	

FINAL ORDER

NOW ON THIS 21st day of March, 2009, the above-entitled matter comes on before John (Jack) Confer, Executive Director of the Kansas State Board of Healing Arts. After reviewing the file and being duly advised in the premises, the Executive Director makes the following determinations.

1. On February 5, 2009, the Executive Director issued a Summary Order regarding the license of Richard J. Bene, Jr., M.D. ("Licensee") to practice as a medical doctor in the state of Kansas. The Summary Order contained a provision assessing a \$500 civil fine against Licensee, due and payable on or before March 6, 2009.

2. The Summary Order contained a notice that a written request for hearing could be filed within 15 days following service, but if no hearing is requested, the Summary Order would be come effective as a final order of the Board upon expiration of the time for requesting a hearing.

3. No hearing has been requested by any party; therefore the Summary Order became effective as a final order on February 24, 2009.

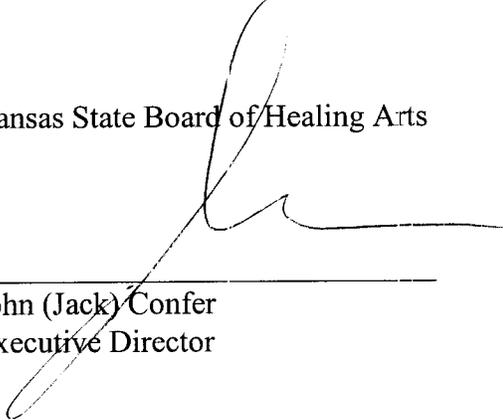
IT IS SO ORDERED.

NOTICE OF RIGHTS

PLEASE TAKE NOTICE that this is a Final Order. Pursuant to K.S.A. 77-601 *et. seq.* a party to whom a Final Order is issued may petition for judicial review of this Final Order. The petition for judicial review must be filed within thirty (30) days of service of this Final Order. In the event a petition for judicial review is filed pursuant to K.S.A 77-613(e), the Agency Officer to be served on behalf of the Kansas State Board of Healing Arts is Jack Confer, Executive Direction, Kansas State Board of Healing Arts, 235 S. Topeka Blvd., Topeka, Kansas 66603.

Dated this 2nd **day of March 2009.**

Kansas State Board of Healing Arts



John (Jack) Confer
Executive Director

Certificate of Service

I certify that the foregoing Final Order was served this 3rd day of March 2009, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Richard J. Bene, Jr., M.D.
5401 College Blvd., #203
Leawood, KS 66211

and a copy was hand-delivered to:

Stacy R. Bond
Associate Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603

Melissa Massey

Compliance Coordinator
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603

And the original was filed with the office of the Executive Director:

John (Jack) Confer
Executive Director
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603



Cathy Brown
Executive Assistant

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KS State Board of Healing Arts

**BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS**

In the Matter of)
Richard J. Bene, Jr., M.D.)
)
)
Kansas License No. 04-24860)
_____)

Docket No. 09-HA 00119
Investigation No. 07-00297

SUMMARY ORDER

NOW ON THIS 5th day of February, 2009, this matter comes before John (Jack) Confer, Executive Director, Kansas State Board of Healing Arts ("Board"), in summary proceedings pursuant to K.S.A. 77-537. This Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period if no request for hearing is made, pursuant to K.S.A. 77-542.

Upon review of the agency record and being duly advised in the premises, the following findings of fact, conclusions of law and order are made for and on behalf of the Board:

Findings of Fact

1. Richard J. Bene Jr., M.D. ("Licensee") was originally issued license number 04-24860 to practice medicine and surgery in the state of Kansas on October 9, 1993. Licensee's license is active, having last been renewed on or about July 7, 2008.
2. Licensee's last known mailing address as provided to the Board at the time of his renewal is 5401 College Blvd. #203, Leawood, KS 66211.
3. On or about July 30, 2006, the Board received a complaint alleging licensee was engaging in prohibited advertising practices. Enclosed with the complaint were copies of advertisements that were placed in the Kansas City Star on June 19, 2005 and in the KC Magazine

December 2005 edition.

4. The advertisements submitted by the complainant pictured Licensee and stated that “Monarch’s team of board-certified plastic surgeons area the region’s best. . . .”

5. On June 3, 2008, Board investigator sent a letter to Licensee requesting Licensee to provide a response to the compliant.

6. Licensee responded that the advertisement with his picture and the claims of superiority were a cooperative effort between Monarch Plastic Surgery and Overland Park Regional Medical Center. Licensee further stated that he was not involved in the writing of the content nor did he personally approve the content before it was published. Licensee further stated that he understood that he was responsible for such ad.

7. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board members who serve on the Board’s Disciplinary Panel. The Disciplinary Panel authorized and directed the issuance of this Summary Order and the specific disciplinary sanctions pursuant to Board Guidelines.

Applicable Law

8. K.S.A. 65-2836 states, in pertinent part: A licensee’s license may be revoked, suspended, or limited or the licensee may be publicly or privately censured, or an application for license or for reinstatement of a license may be denied upon finding of the existence of any of the following grounds:

(b) The licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency.

9. K.S.A. 65-2837 states, in pertinent part: As used in K.S.A. 65-2836, and amendments thereto, and in this section:

(b) Unprofessional conduct means: (7) advertising professional superiority or the performance of professional services in a superior manner.

Conclusions of Law

10. The Board has jurisdiction over Licensee as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

11. The Board finds that Licensee violated K.S.A. 65-2836 and K.S.A. 65-2837(b)(7) by advertising professional superiority by stating “Monarch’s team of board-certified plastic surgeons area the region’s best. . . .”

12. Based on the facts and circumstances set forth herein, it appears that the use of summary proceedings in this matter is appropriate, in accordance with the provisions set forth in K.S.A. 77-537(a), in that the use of summary proceedings does not violate any provision of the law and the protection of the public interest does not require the Board to give notice and opportunity to participate to persons other than Licensee, Richard J. Bene Jr., M.D.

IT IS, THEREFORE, ORDERED that Licensee is hereby fined \$500.00. Such fine is payable in full to the “Kansas Board of Healing Arts” on or before March 6, 2009.

NOTICE AND OPPORTUNITY FOR HEARING

PLEASE TAKE NOTICE that this is a Summary Order. A party to whom a Summary Order is issued may file a written request for a hearing pursuant to K.S.A. 77-542 within 15 days following service of the Summary Order. Such written request shall also state the legal and/or factual basis upon which the party opposes this Order. If a hearing is not requested, the Summary Order shall become effective as a Final Order of the Board upon expiration of the time for requesting a hearing. A written request for hearing must be addressed and mailed to Jack Confer, Executive Director, Kansas State Board of Healing Arts, 235 S. Topeka Blvd., Topeka, KS 66603.

PLEASE TAKE NOTICE that upon becoming effective as a Final Order, this document

shall be deemed a public record and be reported to any reporting entities authorized to receive such disclosure.

Dated this 5TH day of February, 2009.

Kansas State Board of Healing Arts



Jack Confer
Executive Director

Certificate of Service

I certify that the foregoing Summary Order was served this 5TH day of February, 2009, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Richard J. Bene Jr., M.D.
5401 College Blvd. #203
Leawood, KS 66211

and a copy was hand-delivered to:

Melissa Massey
Compliance Coordinator
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603

Stacy R. Bond
Associate Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603

and the original was filed with the office of the Executive Director:

Jack Confer
Executive Director
Kansas State Board of Healing Arts

235 S. Topeka Blvd.
Topeka, Kansas 66603



Cathy Brown
Executive Assistant

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KS State Board of Healing Arts

**BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS**

In the Matter of

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**RICHARD J. BENE, JR., M.D.
Kansas License No. 04-24860**

Docket No. 09-HA00119

**JOURNAL ENTRY OF SATISFACTION
OF REQUIREMENTS OF FINAL ORDER**

NOW on this 10TH day of March, 2009, this matter comes before John (Jack) Confer, Executive Director, Kansas Board of Healing Arts ("Board"), concerning Licensee's satisfaction of all requirements contained in the Final Order which was filed on March 2, 2009. Wherefore, the Board finds as follows:

1. On or about March 2, 2009, the Board issued a Final Order regarding the license of Richard J. Bene, Jr., M.D. ("Licensee") to practice as a medical doctor in the state of Kansas. The Final Order contained a provision for Licensee to pay a fine in the amount of \$500 on or before March 6, 2009. The Final Order became effective on February 24, 2009.
2. Licensee paid the \$500 fine on February 25, 2009.
3. Licensee has satisfied all requirements of the Final Order and has no further obligation for compliance.

IT IS THEREFORE ORDERED that Licensee is hereby discharged from the requirements of the Final Order filed on March 2, 2009.

IT IS SO ORDERED.

KANSAS BOARD OF HEALING ARTS

John (Jack) Confer
Executive Director

3/6/2009
Date _____

CERTIFICATE OF SERVICE

I, hereby certify that a true and correct copy of the foregoing **Journal Entry of Satisfaction** was served on the 9th day of ~~January~~^{March}, 2009 by United States mail, first-class postage pre-paid and addressed to:

Richard J. Bene, Jr., M.D.
Monarch Plastic Surgery
5401 College Blvd., Ste. 203
Leawood, KS 66211

and a copy was hand-delivered to:

Stacy R. Bond
Associate Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, KS 66603

Melissa Massey
Compliance Coordinator
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3065

and the original was hand-delivered for filing with the office of the Executive Director:

Jack Confer
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068



Cathy Brown
Executive Assistant