

BEFORE THE KANSAS BOARD OF HEALING ARTS

FILED
OCT 10 2010

In the Matter Of)
)
Frank Boehm)
Kansas License No. 04-34394)
_____)

Docket No. 11 HA00040
OAH No. 11HA0008

FILED *CRB*

OCT 15 2010

EMERGENCY EX PARTE ORDER OF SUSPENSION

KS State Board of Healing Arts

NOW on this 11th day of October, 2010 this matter comes before the Presiding Officer upon a Motion for *Ex Parte* Emergency Order of Suspension. Stacy Bond, Associate Litigation Counsel filed a Motion for *Ex Parte* Emergency Order of Suspension. There are no other appearances.

The Presiding Officer has reviewed the agency file in Kansas Board of Healing Arts (KBHA) Docket No. 11-HA00040. The Presiding Officer finds, concludes and orders as follows:

1. This is a motion for an order pursuant to K.S.A. 77-536. Under that statute, the Presiding Officer may issue an order without notice and hearing, and may temporarily limit or suspend a license if the Presiding Officer finds an imminent danger to the public health, safety, or welfare.
2. The Presiding Officer has received and reviewed a Motion for an *Ex Parte* Order suspending the Licensee license's filed with KBHA on October 5, 2010. The motion requests an emergency suspension of Licensee's license.
3. The motion for an emergency order in the above captioned case alleges that Licensee was charged on September 3, 2010 in the United States District Court for the Northern District of New York with a violation of Title 21, United States Code, § 841(a)(1) and Title 21, Code of Federal Regulations, Section 1306.04, a

violation of Title 21, United States Code, Section 846; Conspiracy to Distribute Controlled Substances.

4. Licensee's felony charges stemmed from Licensee conspiring with others to unlawfully prescribe Schedule II controlled substances to individuals for no legitimate medical purpose. It was alleged that Licensee wrote these prescriptions in return for payments and other financial consideration.
5. Licensee would write prescriptions for controlled substances for purposes other than legitimate medical purposes and would write a prescription for the Schedule II controlled substance at the first appointment without conducting a physical examination of such patients to verify the claims of illness or condition, or after conducting only a limited physical examination.
6. Licensee entered into a Plea Agreement in the United States District Court for the Northern District of New York in Case No. 10-CR-408(NAM) on September 3, 2010. Licensee entered a guilty plea to one count of Conspiracy to distribute, possess with intent to distribute, and dispense mixtures and substances containing a detectable amount of Oxycodone, a Schedule II controlled substance, without a legitimate medical purpose and outside the usual course of professional practice, a felony.
7. As a condition of his Plea Agreement, Licensee agreed to surrender his New York medical license.
8. On or about September 28, 2010, Licensee surrendered his New York medical license to the New York State Department of Health, State Board for Professional Medical Conduct by signing a Surrender of License Surrender

Order in BPMC No. 10-180.

FINDINGS OF FACT

9. Licensee presently has an active and unrestricted license to practice medicine and surgery in the state of Kansas.
10. The Presiding Officer finds that Licensee has been charged with Conspiracy to Distribute Controlled Substances in violation of Title 21, United States Code, Section 846.
11. The Presiding Officer finds that Licensee's actions demonstrate that he has engaged in conduct which involves unlawfully prescribing Schedule II controlled substances to individuals for no legitimate medical purpose.
12. The Presiding Officer finds that the crime of Conspiracy to Distribute Controlled Substances is an egregious crime which has serious potential harm to the public.

CONCLUSIONS OF LAW

13. The Presiding Officer finds that pursuant to K.S.A. 77-536, the Board may use the emergency proceeding to protect the public from an immediate danger to the public health, safety or welfare.
14. The Presiding Officer finds that pursuant to K.S.A. 65-2836, the Board has grounds to revoke, suspend, censure, fine or otherwise limit Licensee's license for violation of the Healing Arts Act.
15. The Presiding Officer finds that Licensee has violated K.S.A. 65-2836(c), in that Licensee's acts as set forth in the criminal complaint constitute unprofessional conduct.

16. The Presiding Officer finds that Licensee's continuation in practice would constitute an immediate danger to the public health, safety or welfare.
17. The Presiding Officer further concludes that an immediate suspension of Licensee's license to practice medicine and surgery is warranted until a formal hearing can be conducted.
18. The Presiding Officer finds this is an Emergency Order under K.S.A. 77-536. It is effective upon issuance.

IT IS THEREFORE, ORDERED that the license of Frank Boehm, MD is hereby immediately suspended and this Order is effective upon issuance.

PLEASE TAKE NOTICE that a hearing on this matter will be scheduled as soon as practicable at the Board office, 235 S.W. Topeka Blvd., Topeka, Kansas. The issue to be determined is whether the emergency order of suspension should remain in place, be modified or terminated. A Notice of Hearing will be issued.

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 the 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 S.W. Topeka Blvd., Topeka, KS 66603.

Dated this 11th day of October, 2010.

Kansas State Board of Healing Arts


Tracy T. Diehl, Presiding Officer
Office of Administrative Hearings

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the PETITION by United States mail, postage prepaid, on this 11th day of October, 2010, to the following:

Frank H. Boehm, MD
(confidential)
Utica, NY 13502
Respondent

The original for filing and a copy was hand-delivered to:

Stacy Bond, Associate Litigation Counsel
Kansas Board of Healing Arts
235 S. Topeka Blvd.
Topeka, KS 66603
Telephone: 785-296-3268
Attorney for the Petitioner

Kathleen Selzler Lippert, Executive Director
Kansas Board of Healing Arts
235 S. Topeka Blvd.
Topeka, KS 66603
Telephone: 785-296-0961

A. Wiedmaier
Staff Person