

FILED

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

MAR 23 1995

**KANSAS STATE BOARD OF
HEALING ARTS**

In the Matter of)
)
ERIC M. CABRERA, M.D.)
Kansas License No. 4-24659)
_____)

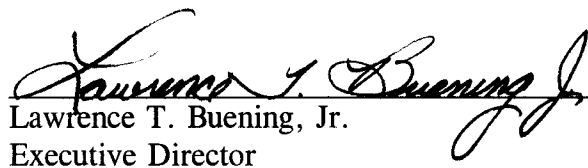
Case No. 94-00164

JOURNAL ENTRY

COMES NOW the Kansas State Board of Healing Arts ("Board"), sitting as agency head this 11th day of February, 1995, to consider the Initial Order issued by the Presiding Officer in the above-captioned case on January 10, 1995. Neither party in this matter has requested review of the Initial Order. The agency head does not wish to review the Initial Order. In accordance with K.S.A. 77-530(b), the Initial Order became the Final Order of the Board effective February 10, 1995.

IT IS SO ORDERED.

KANSAS STATE BOARD OF HEALING ARTS



Lawrence T. Buening, Jr.
Executive Director

CERTIFICATE OF SERVICE

I, Lawrence T. Buening, Jr., Executive Director, Kansas State Board of Healing Arts, certify that on this 23rd day of March, 1995, a true and correct copy of the foregoing **JOURNAL ENTRY** was deposited in the United States mail, first class, postage prepaid, addressed to the following:

Eric M. Cabrera, M.D.
750 Avenue D West
Kingman, Kansas 67068

Eric M. Cabrera, M.D.
P.O. Box 55-2394
Paicilla Township
Panama City, Panama 645033, No. 404

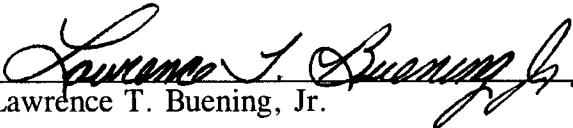
Eric M. Cabrera, M.D.
7606 33rd Avenue South
Tampa, Florida 33619

and a copy was hand-delivered to:

Gretchen E. Schmidt
Associate Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603-3068

and the original was hand-delivered to:

Office of the Executive Director
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603-3068



Lawrence T. Buening, Jr.

JOURNAL ENTRY

Eric M. Cabrera, M.D.

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**KANSAS STATE BOARD OF
HEALING ARTS**

Case No. 94-00164

In the Matter of)
)
ERIC M. CABRERA, M.D.)
Kansas License No. 4-24659)
_____)

INITIAL ORDER

NOW, on this 20th day of December, 1994, the above entitled matter comes on for final determination of the Petition to Revoke, Suspend or Otherwise Limit Licensure of Eric M. Cabrera, M.D. ("Respondent") to practice medicine and surgery in the State of Kansas.

The Kansas State Board of Healing Arts ("Board") appears by its Associate Counsel, Gretchen E. Schmidt. Neither the Respondent nor any attorney appeared on his behalf.

After reviewing the file, receiving the evidence, hearing statements of counsel and being otherwise duly advised in the premises, the specific findings of fact and conclusions of law for decision are as follows:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. This action was commenced under the provisions of the Healing Arts Act, K.S.A. 65-2801 et seq., and pursuant to K.S.A. 65-2851a, the proceedings were conducted in accordance with the Kansas Administrative Procedure Act, K.S.A. 77-501 et seq.

2. The Board has provided full and proper notice to Respondent of all proceedings in this matter in accordance with the Kansas Administrative Procedure Act. The Presiding Officer finds that the Notice of Proposed Default Order was mailed on December 9, 1994 to

INITIAL ORDER

Eric M. Cabrera, M.D.

Respondent. There has been no response by Respondent and more than seven days have elapsed since service of the Proposed Default Order. Subsequent to the time the Default Order became effective, the Presiding Officer has conducted further proceedings by examining evidence introduced by Petitioner at the final hearing on December 20, 1994.

3. While engaged in a doctor/patient relationship with and while personally treating patient M.S., Respondent committed acts of sexual misconduct upon said patient which related to Respondent's professional practice. Such sexual misconduct constitutes "unprofessional conduct" in violation of K.S.A. 65-2836(b) as defined by K.S.A. 65-2837(b)(16).

4. While engaged in a doctor/patient relationship with and while personally treating patient S.R., Respondent committed acts of sexual misconduct upon said patient which related to Respondent's professional practice. Such sexual misconduct constitutes "unprofessional conduct" in violation of K.S.A. 65-2836(b) as defined by K.S.A. 65-2837(b)(16).

5. From September 19, 1993 through December 3, 1993, Respondent demonstrated on at least five occasions with five separate patients professional incompetency by failing to adhere to the applicable standard of care to a degree constituting ordinary negligence in violation of K.S.A. 65-2836(b) as defined by K.S.A. 65-2837(a)(2). Further, such various acts of substandard medical care establish a pattern of practice or other behavior demonstrating a manifest incapacity or incompetence of Licensee to practice medicine and surgery in violation of K.S.A. 65-2836(b) as defined by K.S.A. 65-2837(a)(3).

6. In his medical treatment of at least five separate patients and by engaging in sexual misconduct with two additional female patients, Respondent has demonstrated

INITIAL ORDER

Eric M. Cabrera, M.D.

"unprofessional conduct" by repeatedly failing to practice the healing arts with that level of care, skill and treatment recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances in violation of K.S.A. 65-2836(b) as defined by K.S.A. 65-2837(b)(24).

7. Based upon the totality of the foregoing violations of the Kansas Healing Arts Act, Respondent's license to practice medicine and surgery in the State of Kansas, No. 4-24659, is hereby revoked. The Presiding Officer further assesses all costs of these proceedings against Respondent in accordance with K.S.A. 65-2846 in such proportion as the Board may determine to be appropriate.

8. Upon Motion by the Board, a Protective Order is hereby issued pursuant to K.S.A. 77-522 with regard to Exhibits 1 through 32 submitted by the Board and accepted by the Presiding Officer. Said exhibits contain investigative reports, patient medical records, Board review committee meeting minutes and medical facility peer review and risk management records deemed confidential and not subject to redisclosure pursuant to K.S.A. 65-2898(a), K.S.A. 65-2839(a) and K.S.A. 65-4915 et seq.

9. This is an Initial Order issued by the Presiding Officer pursuant to K.S.A. 77-526(b) and shall become a Final Order unless reviewed in accordance with K.S.A. 77-527. K.S.A. 77-527(a) provides that any party to an administrative hearing may request review of an Initial Order by an agency head as that term is defined in K.S.A. 77-502(b). A Petition for Review of Initial Order must be filed with the agency head within 15 days after service of this Initial Order. This Initial Order shall become effective as a Final Order 30 days after service

INITIAL ORDER

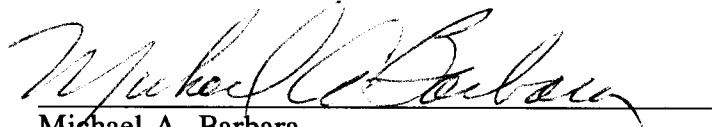
Eric M. Cabrera, M.D.

of this Initial Order if no party has filed a Petition for Review, the agency head has not given written notice of its intention to exercise review, and a final determination by the agency head is not otherwise required by law. Additionally, K.S.A. 77-612 provides that judicial review of a final administrative action may be obtained only after a party seeking judicial review has exhausted all available administrative remedies.

IT IS SO ORDERED.

DATED this 10th day of January, 1995.

KANSAS STATE BOARD OF HEALING ARTS



Michael A. Barbara
Presiding Officer

INITIAL ORDER

Eric M. Cabrera, M.D.

CERTIFICATE OF SERVICE

I, Lawrence T. Buening, Jr., certify that on this 10th day of January, 1995, a true and correct copy of the above **INITIAL ORDER** was deposited in the United States mail, first class, postage prepaid, addressed to the following:

Eric M. Cabrera, M.D.
750 Avenue D West
Kingman, Kansas 67068

Eric M. Cabrera, M.D.
P.O. Box 55-2394
Paicilla Township
Panama City, Panama 645033, No. 404

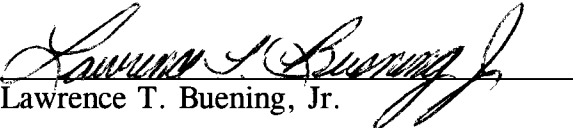
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Lawrence T. Buening, Jr.

INITIAL ORDER

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