

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

F I L E D

APR 16 2001

KANSAS STATE BOARD OF
HEALING ARTS

In the Matter of)
)
LOUIS M. CULP, M.D.)
Kansas License No. 4-10453)
_____)

Docket No. 01-HA-23

EMERGENCY ORDER

NOW ON THIS Twelfth Day of April, 2001, this matter comes on for hearing upon Petitioner's motion for an emergency order. Petitioner appears through Stacy L. Cook, Litigation Counsel. Respondent Louis M. Culp, M.D. appears in person and without counsel.

This matter originated with a Petition to Revoke, Suspend or Otherwise Limit the license of Respondent. An emergency order of suspension was issued *ex parte* on April 5, 2001, the same day that the petition was filed. A notice of this hearing was served with the petition and suspension order.

After hearing the testimony of witnesses and the arguments of the parties, and having the agency record before him, the Presiding Officer makes the following findings of fact, conclusions of law and orders:

1. Respondent is licensed by the Board to practice medicine and surgery. He was initially licensed in 1953 and has been continually licensed since that time.
2. On October 13, 2000, Respondent examined Patient DH following a work related injury. This was the first time Patient DH had been seen by Respondent. The patient's complaint was shoulder and lower back pain.
3. During the examination of Patient DH, Respondent initiated what was purported to be a breast examination. During the breast examination, Respondent pinched Patient DH's

nipples. Respondent made inappropriate comments to the patient.

4. Respondent also used a tuning fork during the examination of Patient DH to check vibratory sense. The Presiding Officer does not find that use of the tuning fork was not indicated, but does find that Respondent engaged in misconduct while using the tuning fork. While Patient DH was clothed, Respondent put the tuning fork on Patient DH's crotch and asked her if it excited her.

5. Respondent then opened the patient's pants. While the patient's pants were open, he put his fingers in the patient's vagina and moved them up and down. Respondent testified that he did not do a pelvic examination, but that he did want to check for any internal injury or hairline fracture to the pelvis. He did not document the vaginal examination.

6. Expert testimony is not necessary for the Presiding Officer to conclude that neither the breast examination nor the vaginal examination, as performed by Respondent, were medically indicated.

7. The Presiding Officer also is able to conclude from Respondent's conduct with the patient, and by his related remarks that he believes are humorous and which were made throughout the patient encounter and at other times, that Respondent did not recognize the appropriate boundary between patient and physician. While it is not known whether his conduct was for his own sexual pleasure or merely a disregard for the patient's privacy in sexually related issues, Respondent has engaged in unprofessional conduct as defined at K.S.A. 2000 Supp. 65-2837(b)(16), and in dishonorable conduct as proscribed by K.S.A. 2000 Supp. 65-2836(b).

8. Regarding Patient LW, there is cause for concern that Respondent did not properly perform the examination of a female patient. This patient's affidavit supports the

findings and conclusions regarding Patient DH pertaining to Respondent's lack of recognition of professional boundaries. But in light of the short notice to the parties regarding Patient LW's examination, no specific findings of misconduct during that examination are made at this time. Those findings may be made during the formal hearing on the petition.

9. The Presiding Officer finds that Respondent's continued practice of the healing arts subjects patients to unnecessary and predicably damaging intrusion into their personal privacy with no medical justification. This is an imminent danger to the public health and safety.

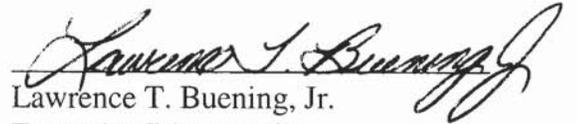
10. The Kansas administrative procedure act authorizes an agency to use emergency proceedings in a situation involving an immediate threat to the public health and safety, and to take such action as is necessary to prevent or avoid that immediate threat.

IT IS, THEREFORE, ORDERED that the *ex parte* order dated April 5, 2001 temporarily suspending the license of Respondent Louis M. Culp, M.D. remains in effect, and the license is suspended until the conclusion of the proceeding on the petition or until otherwise vacated by the Board.

IT IS FURTHER ORDERED that this order of suspension shall not preclude Respondent from conferring with other licensees for the purpose of transferring patient care.

PLEASE TAKE NOTICE that this is an emergency order. It is effective when issued. A party may ask the Board to review this order by filing a request for review with the Executive Director, 235 S. Topeka Blvd., Topeka, KS 66603.

DATED this 16th Day of April, 2001.



Lawrence T. Buening, Jr.
Executive Director, for
Robert L. Frayser, D.O.
Presiding Officer

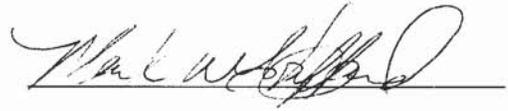
Certificate of Service

I certify that a true copy of the foregoing emergency order was served this 16th day of April, 2001, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Louis M. Culp, M.D.
confidential
Kansas City, KS 66109

and a copy was hand-delivered tot eh office of:

Stacy L. Cook
Litigation Counsel
235 S. Topeka Blvd.
Topeka, KS 66603

A handwritten signature in cursive script, appearing to read "Louis M. Culp", is written over a horizontal line.