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CAB

DEC 16 2010

KS State Board of Healing Arts

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

In the Matter of)
Vijendra Dave, M.D.)
License No. 04-28553)
_____)

Docket No. 07-HA00052

FINAL ORDER
(Pursuant to K.S.A. 77-501 et seq.)

Pursuant to the authority granted to the Kansas State Board of Healing Arts (“Board”) by K.S.A. 65-2801 et seq. and in accordance with the provisions of the Kansas Administrative Procedure Act K.S.A. 77-501 et seq., the Board hereby enters this Final Order in the above-captioned matter. Members of the Board serving on the Disciplinary Panel for this matter were recused from participation.

I. Findings of Fact

The Board has been shown the following facts:

1. Vijendra Dave, M.D. (“Licensee”), (confidential) Wichita, KS
67216, is licensed to practice medicine and surgery in the State of Kansas,
License No. 04-28553, and has been so licensed since February 12, 2000.
 2. On or about August 24, 1999, Licensee submitted an application for licensure
to practice medicine and surgery in Kansas. (confidential)
- (confidential)
3. On December 13, 1999, Licensee entered into a Stipulation and Agreement
and Enforcement Order (KSBHA Docket No. 00-HA00027) (“Stipulation”)
with the Board. (confidential)

(confidential)

required Licensee to comply with the following limitations upon his license, as a condition to being granted a license to engage in the practice of medicine and surgery:

I.

(confidential)

II. Licensee agreed to restrict his practice to a group setting with a physician supervisor.

III.

(confidential)

4. The Stipulation stated that the limitations shall remain in effect for at least three (3) years. At the end of the three (3) year period, Licensee could request termination of the limitations.
5. On or about July 17, 2002, Licensee requested termination of the limitations in the Stipulation.
6. The Board entered a Final Order (KSBHA Docket No. 03-HA-13) on December 18, 2002, which terminated the provisions of the Stipulation.
- 7.

(confidential)

8. On January 12, 2007, Licensee entered into a Consent Order (KSBHA Docket No. 07-HA00052) with the Board. Licensee agreed to the following provisions concerning his license to practice the healing arts in Kansas:

I. Licensee agreed to the temporary limitation of his license, in that he was prohibited from engaging in any direct patient care activities, commencing immediately upon issuance of the Consent Order and until January 20, 2007.

II. Licensee also agreed to have his license temporarily suspended commencing on January 21, 2007 and continuing until a formal hearing could be held in this matter.

9. On January 25, 2007, a Petition was filed by the Board, which alleged that Licensee was not able to practice medicine with reasonable skill and safety

(confidential)

Licensee submitted a letter to the Board on or about April 19, 2007, requesting termination of the limitations placed upon his license.

(confidential)

(confidential)

10. On August 27, 2007, the Board issued a Final Order that denied Licensee's request to terminate the suspension of his license and ordered the continued suspension of his license until circumstances indicated that Licensee could practice with reasonable skill and safety.

(confidential)

(confidential)

(confidential)

The Final Order indicated that Licensee could request termination of the suspension after he presented a plan to the Board that

included a therapeutically supportive practice setting that could provide appropriate practice supervision.

11. On or about October 2, 2007, Licensee submitted a letter to the Board requesting termination of the suspension of his license. (confidential)

(confidential)

12. On October 30, 2007, a Final Order was issued which denied the request for termination of the suspension. The Board found that circumstances had not changed since the issuance of the August 27, 2007 Final Order. The Final Order indicated that the Board would, in the future, consider whether circumstances have changed (confidential)

(confidential)

13. On November 20, 2007, Licensee submitted a request for the termination of the temporary suspension of his license (confidential)

(confidential)

- 14.

(confidential)

(confidential)

II. Applicable Law

- a. K.S.A. 77-501 et seq. – Kansas Administrative Procedure Act
- b. K.S.A. 65-2801 et seq. – Kansas Healing Arts Act
- c. K.S.A. 65-2836 – Revocation, Suspension, Limitation or Denial of Licenses;
Censure of Licensee
- d. K.S.A. 65-2838 – Stipulations

III. Policy Statement

The public policy of regulating the practice of healing arts in the State of Kansas is set forth in K.S.A. 65-2801:

Recognizing that the practice of the healing arts is a privilege granted by legislative authority and is not a natural right of individuals, it is deemed necessary as a matter of policy in the interests of public health, safety and welfare, to provide laws and provisions covering the granting of that privilege and its subsequent use, control and regulation to the end that the public shall be properly protected against unprofessional, improper, unauthorized and unqualified practice of the healing arts and from unprofessional conduct by persons licensed to practice under this act.

IV. Conclusions of Law

Based upon the Findings of Fact enumerated in Paragraphs #1 through #16, the Applicable Law and the Policy Statement set forth above:

THE BOARD HEREBY CONCLUDES AS FOLLOWS:

17. On or about August 24, 1999, Licensee submitted an application for licensure to practice medicine and surgery in Kansas. (confidential)

(confidential)

18. On December 13, 1999, Licensee entered into a Stipulation and Agreement and Enforcement Order (KSBHA Docket No. 00-HA00027) (“Stipulation”) with the Board. (confidential)

(confidential)

The Stipulation

required Licensee to comply with the following limitations upon his license, as a condition to being granted a license to engage in the practice of medicine and surgery:

I.

(confidential)

II. Licensee agreed to restrict his practice to a group setting with a physician supervisor.

III.

(confidential)

19. The Stipulation stated that the limitations shall remain in effect for at least three (3) years. At the end of the three (3) year period, Licensee could request termination of the limitations.
20. On or about July 17, 2002, Licensee requested termination of the limitations in the Stipulation.
21. The Board entered a Final Order (KSBHA Docket No. 03-HA-13) on December 18, 2002, which terminated the provisions of the Stipulation.
- 22.

(confidential)

23. On January 12, 2007, Licensee entered into a Consent Order (KSBHA Docket No. 07-HA00052) with the Board. Licensee agreed to the following provisions concerning his license to practice the healing arts in Kansas:
 - I. Licensee agreed to the temporary limitation of his license, in that he was prohibited from engaging in any direct patient care activities, commencing immediately upon issuance of the Consent Order and until January 20, 2007.
 - II. Licensee also agreed to have his license temporarily suspended commencing on January 21, 2007 and continuing until a formal hearing could be held in this matter.

24. On January 25, 2007, a Petition was filed by the Board, which alleged that Licensee was not able to practice medicine with reasonable skill and safety
(confidential) Licensee submitted a letter to the Board on or about April 19, 2007, requesting termination of the limitations placed upon his license. (confidential)

(confidential)

25. On August 27, 2007, the Board issued a Final Order that denied Licensee's request to terminate the suspension of his license and ordered the continued suspension of his license until circumstances indicated that Licensee could practice with reasonable skill and safety. (confidential)

(confidential)

(confidential) The Final Order indicated that Licensee could request termination of the suspension after he presented a plan to the Board that included a therapeutically supportive practice setting that could provide appropriate practice supervision.

26. On or about October 2, 2007, Licensee submitted a letter to the Board requesting termination of the suspension of his license. (confidential)

(confidential)

27. On October 30, 2007, a Final Order was issued which denied the request for termination of the suspension. The Board found that circumstances had not changed since the issuance of the August 27, 2007 Final Order. The Final Order indicated that the Board would, in the future, consider whether

circumstances have changed

(confidential)

(confidential)

28. On November 20, 2007, Licensee submitted a request for the termination of
the temporary suspension of his license

(confidential)

29.

30.

(confidential)

31.

32.

(confidential)

33. The Board has consistently received compliance reporting on a quarterly basis

34.

(confidential)

**IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF
HEALING ARTS:**


35. Licensee's request to terminate (confidential)
requirement is hereby **DENIED**.

36.

(confidential)

37. The Board shall maintain jurisdiction over this matter to issue any Order(s)
deemed necessary and appropriate.

**IT IS SO ORDERED THIS 15 DAY OF Dec, 2010, IN THE CITY
OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**


Kathleen Selzler Lippert
Executive Director
Kansas State Board of Healing Arts

NOTICE OF RIGHTS

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 Kathleen Selzler Lippert, the Board's Executive Director, at 235 SW Topeka Blvd., Topeka, KS 66603.

CERTIFICATE OF SERVICE

I, hereby certify that a true copy of the foregoing Final Order was served this 16th day of December, 2010 by depositing the same in the United States Mail, first-class postage prepaid and addressed to:

Vijendra Dave, M.D.

(confidential)

Wichita, KS 67216

And a copy was hand delivered to the office of:

Kelli J. Stevens, Litigation Counsel
Kansas State Board of Healing Arts
235 SW Topeka Blvd.
Topeka, Kansas 66603

Katy Lenahan, Licensing Administrator
Kansas State Board of Healing Arts
235 SW Topeka Blvd.
Topeka, Kansas 66603

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

The original filed with:

Kathleen Selzler Lippert, Executive Director
Kansas State Board of Healing Arts
235 SW Topeka Blvd.
Topeka, KS 66603



Cathy Brown
Executive Assistant