

BEFORE THE BOARD OF HEALING ARTS OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of
VILAS DESHPANDE, M.D.
Kansas License No. 04-36162

KSBHA Docket No. 13-HA00032

FINAL ORDER GRANTING LICENSURE TO PRACTICE MEDICINE AND SURGERY

NOW on this 7th day of December 2012, comes before the Kansas State Board of Healing Arts ("Board") the application of Vilas Deshpande, M.D. ("Applicant") for a license to practice medicine and surgery in the State of Kansas.

Pursuant to the authority granted to the Board by the Kansas Healing Arts Act, 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.

- 1. On or about June 4, 2012, Vilas Deshpande, M.D. ("Applicant") submitted an application to the Board for licensure to practice medicine and surgery in the State of Kansas. Such application was deemed complete and filed with the Board on November 13, 2012.
2. Applicant currently maintains an active license to practice medicine and surgery in Florida, Arizona and New York.

3. In his application, Applicant disclosed disciplinary actions had been taken against his professional license in all three of the states in which he maintains licensure, Florida (2004), New York (2005) and Arizona (2007). All were associated with a wrong-site surgery which took place in Florida in 2003.

4. Applicant also disclosed four malpractice claims which were settled with payments made on his behalf and two pending malpractice claims.

5. Pursuant to K.S.A. 65-2836(w), there are grounds to deny licensure having an “adverse judgment, award or settlement against the licensee resulting from a medical liability claim related to acts or conduct which would constitute grounds for disciplinary action under this section.”

6. Pursuant to K.S.A. 65-2836(j), there are also grounds for denial of licensure having “had a license to practice the healing arts revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state . . .”

7. In his responsive correspondence to the Board and testimony at the conference hearing about the malpractice settlements, Applicant noted that two (2) of the cases were settled without his consent. Applicant also presented information about malpractice rates in Florida and defense costs.

8. During the conference hearing, Applicant testified at length regarding his clinical decision-making and the particular patient condition and circumstances of each malpractice case and the wrong-site surgery underlying his disciplinary actions.

9. In considering the four (4) malpractice settlements against Applicant, the Board recognizes that there are many factors prompting settlement of a medical malpractice lawsuit that do not necessarily bear on whether such negligence occurred. Application and disciplinary cases presented to the Board involving medical malpractice settlement(s) as alleged grounds for licensure denial or discipline must be evaluated on their unique facts and circumstances relating to professional competency. When considering malpractice settlements, the Board looks to its “Guidelines for the Imposition of Disciplinary Actions” and may consider factors that include, but are not limited to, whether there have been multiple settlements with similar allegations; a significant number of settlements occurring in a relatively short span of time; the seriousness of the alleged negligence; and the degree of patient injury.

10. The Board does not consider the fact that Applicant has two (2) pending malpractice actions to be relevant to the specific Healing Arts Act violations alleged in this matter as there has been no settlement or judgment against Applicant, and the allegations in those cases remain unproven.

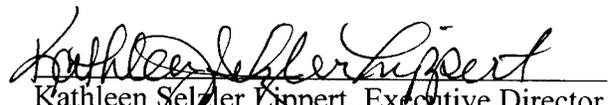
11. The Board takes note that the patient care underlying the four (4) malpractice settlements occurred within a timeframe of nine (9) years, and that two (2) cases occurred over ten (10) years ago. Additionally, Applicant’s explanation of the specific events underlying each case and the changes he has made to his surgical practice since that time are significant mitigating factors.

12. Furthermore, Applicant’s disciplinary history in the other states where he maintains a license all stemmed from the same surgical error. The Board considers the remedial action that Applicant completed with respect to the disciplinary action against his Florida license to be satisfactory.

13. Based upon the evidence and testimony presented, the Board concludes that while there are grounds to deny licensure to Applicant, the mitigating circumstances presented in this matter indicate that denial is not warranted. The Board further concludes that Applicant's professional level of skill and clinical judgment are satisfactory to merit licensure.

IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS that Applicant is hereby granted a license to practice as medicine and surgery in the State of Kansas.

IT IS SO ORDERED THIS 31st DAY OF DECEMBER, 2012, 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, and service of a Final Order is complete upon mailing. Pursuant to K.S.A. 77-529, Licensee may petition the Board for Reconsideration of a Final Order within fifteen (15) days following service of the final order. Additionally, 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, Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing **FINAL ORDER GRANTING LICENSURE TO PRACTICE MEDICINE AND SURGERY** was served on this 31st day of December, 2012, by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Vilas Deshpande, M.D.
Confidential
Seminole, FL 33777

Mark Stafford
Holbrook & Osborn, P.A.
107 S.W. 6th Avenue, Ste. 210
Topeka, KS 66603

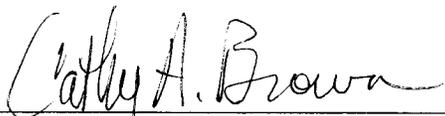
And a copy was hand-delivered to:

Seth Brackman, Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Katy Lenahan, Licensing Administrator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

And the original was filed with the office of:

Kathleen Selzler, Lippert, Executive Director
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612



Cathy Brown, Executive Assistant