

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

FILED JULY 8 2004 KANSAS STATE BOARD OF HEALING ARTS

In the Matter of)
)
MARCIA A. DREWRY, D.O.)
Application for Reinstatement of)
Kansas License)
_____)

Docket No. 04-HA-67

FINAL ORDER

NOW ON THIS Thirtieth Day of June 2004, this matter comes on for a formal hearing before Carolina Soria, D.O., Presiding Officer. Applicant Marcia A. Drewry appears in person. Kelli J. Benintendi, Associate Counsel, appears for the Board.

Having heard the testimony, with the agency record before her, and taking official notice of the records of prior Board proceedings, the Presiding Officer finds, concludes, and orders as follows:

1. Applicant submitted her application for reinstatement of her inactive license. That application is not yet complete in that the Board has not yet received verification of licensure from the State of Florida. The Presiding Officer concludes that this matter may proceed, subject to receiving verification from the State of Florida that Applicant's residency permit in that state is in good standing.

2. Applicant originally was licensed to practice osteopathic medicine and surgery in the State of Kansas on October 15, 1994. The Board commenced a disciplinary proceeding July 27,

2000, generally alleging that Applicant had engaged in practice below the standard of care in the treatment of 31 patients. Board counsel filed a motion seeking an emergency order temporarily suspending Applicant's license. In response, Applicant agreed to convert her license to be inactive, effective August 7, 2000. The disciplinary proceeding was finally resolved December 10, 2001 when the Board approved a settlement agreement in which Applicant surrendered her license.

3. Paragraph 10(a) of 2001 agreement requires that Applicant must complete a three-year residency approved by ACGME or AOA. The Presiding Officer finds that Applicant attended and successfully completed residency in family practice at Florida Hospital East Orlando. Both the American College of Osteopathic Family Physicians and the American Osteopathic Association accredit this residency program. This is a three-year program, though Applicant was allowed to enter the program as a second-year resident. Dr. Bigsby, prior director of the program, testified that he gave Applicant some remedial work to complete prior to her commencing the residency program, and that remedial work was designed to address some of the deficiencies that the Board had identified in the disciplinary proceeding. He further testified that Applicant progressed satisfactorily while in the residency program. Applicant passed the exam to become board certified in family practice, and will be eligible for certification in October 2004. The Presiding Officer finds and concludes that Applicant's professional competence is significantly greater now than when she surrendered her license.

4. The 2001 agreement includes a statement that one year of the residency training must include an internship or PGY1 residency. The parties dispute the intent of that statement. Board counsel argues that Applicant was to complete either an internship or first-year residency subsequent to the December 2001 agreement. Applicant argues that she had already completed the internship in

1993-94 at Riverside Hospital in Wichita, Kansas. Dr. Bigsby testified that he was aware of the agreement and its contents, and that Applicant was given credit for that prior internship.

5. The Presiding Officer finds and concludes that the Board may, in its discretion, grant a license to a person who meets the statutory requirements for a license. In light of the disciplinary panel's recommendation to Board counsel to oppose the application, the Presiding Officer is not willing to exercise this discretion in a manner that would allow Applicant to practice in Kansas without the full Board's deliberation on the matter. The Presiding Officer is not required to reach a conclusion on that issue because Applicant only seeks an inactive license. If, in the future, Applicant asks the Board to convert her license to a type that would allow her to practice in Kansas, then the issue should be resolved by the full Board at that time. In the event that Applicant is allowed to practice in this state, then the Presiding Officer finds that her practice should be limited to group practice, and that a monitor should be appointed to review Applicant's medical records for a period of at least six months.

IT IS, THEREFORE, ORDERED that the application for an inactive license by Marcia A. Drewry, D.O. is granted.

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. 77-610, et seq. Reconsideration of the 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 the Board's executive director at 235 S. Topeka Blvd., Topeka, KS 66603.

DATED THIS 1ST Day of July 2004.

Kansas State Board of Healing Arts

_____/s/_____
Carolina Soria, D.O.
Presiding Officer

Certificate of Service

I certify that a true copy of the foregoing order was served this 8th day of July 2004 by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Marcia A. Drewry, D.O.
530 White River Drive
Orlando, FA 32828

David W. Steed
Klenda, Mitchell, Austerman & Zuercher, LLC
310 N. Main, Ste 1600
Wichita, KS 67202

and a copy was hand-delivered to the office of:

Kelli J. Benintendi
Associate Counsel
235 S. Topeka Blvd.
Topeka, Kansas 66603

_____Sheryl Snyder_____