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BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of)
)
DOUGLAS L. GEENENS, D.O.)
Kansas License No. 04-26214)
_____)

KS State Board of Healing Arts

KSBHA Docket No. 09-HA-00059

FINAL ORDER

NOW this 4th day of December, 2009 the above captioned matter comes before the Kansas State Board of Healing Arts (Board) on the motions to review the Initial Order of the Presiding Officer made by the petitioner, the respondent and the Board itself. The petitioner is represented by Jeff Heinrichs, Special Assistant Litigation Counsel. The respondent, Douglas Geenens, appears in person and through his attorney, Karen Virgillito. There are no other appearances.

WHEREUPON, the Board, pursuant to K.S.A. 77-514, appointed a panel of Board members (Panel) consisting of Betty McBride, Chair, Nancy Welsh, M.D., Kimberley Templeton, M.D. and Ronald Whitmer, D.O. to sit as the Presiding Officer to review the INITIAL ORDER, to hear the statements of counsel, take testimony from the respondent and to render a FINAL ORDER in the above captioned matter.

WHEREUPON, the Panel after hearing the statements of Counsel, after review of the record, review of the Initial Order and being duly apprised of the premises finds and concludes as follows:

1. The Panel accepts the Findings of Fact made by the Presiding Officer in the INITIAL ORDER and adopts those Findings of Fact as the Findings of Fact for the FINAL ORDER. The INITIAL ORDER is incorporated by reference and is part of the FINAL ORDER

2. The Panel accepts the Presiding Officer's Conclusions of Law and adopts the Conclusions of Laws as stated in the INITIAL ORDER as the Conclusions of Law for the FINAL ORDER by reference.

3. The Panel accepts the remedies suggested by the Presiding Officer and adopts the Presiding Officer's remedies for the Final Order by reference. The Presiding Officer found the respondent, Douglas Geenens should:

- A. be publically CENSURED; and
- B. pay the costs associated with this proceeding as allowed by law.

The Panel adopts the remedies issued by the Presiding Officer in whole and incorporates such remedies made by the Presiding Officer with the remedies issued by the panel by reference into the FINAL ORDER.

4. The Panel finds the Presiding Officer sitting for the INITIAL ORDER reserved "the question of additional discipline for decision by the Kansas State Board of Healing Arts." The panel finds that, under the facts of this case, additional discipline is necessary to protect the public.

5. The Panel takes Administrative Notice of the fact the respondent has entered into a Consent Order with the Board in the case of *In the Matter of Douglas L. Geenens*, 05 HA 36 dated December 12, 2004. The Panel acknowledges the respondent has successfully completed the terms outlined in the Consent Order in Case No. 05-HA-36. The Panel further recognizes the Consent Order in Case No. 05-HA-36 is not self-terminating and that the licensee, by his own choice, still operates under the terms of that Consent Order. The fact the respondent has previously been disciplined is an aggravating

factor to the detriment of the licensee. See Board Disciplinary Guidelines, Section III, factors relevant to the licensee (c).

6. The Board takes administrative notice of the fact these violations occurred more than ten years ago. The age of the violations coupled with the fact the respondent voluntarily continues monitoring of his practice are mitigating factors in the respondent's favor. See Board Disciplinary Guidelines factors relevant to the misconduct committed (m) which is a factor relevant to the disciplinary process (c).

7. The Board takes administrative notice of the fact the actions of the respondent have caused a public outcry in both the press and in the Kansas Legislature. The public perceives that it should be protected from the actions of licensees who commit violations of the Healing Arts Act such as by respondent. The desire of the public to be protected from licensees who violate the Healing Arts Act is an aggravating factor which weighs against the respondent. See Board Disciplinary Guidelines factors relevant to the disciplinary process (h) and general aggravating and mitigating circumstances (n).

8. Patient Number 1 was a patient of the respondent. The son of Patient Number 1 was also the patient of the respondent.

9. The Presiding Officer found, as a matter of fact, the respondent slept in the same bed as Patient Number 1 during the time the respondent was treating Patient Number 1. There is no evidence the respondent and Patient Number 1 engaged in sexual activity. At oral argument, respondent concedes sleeping in the same bed with Patient Number 1 was a boundary violation. Under the facts of this case, the Panel finds, as a matter of fact, the respondent's action by sleeping in the same bed with a patient to be a boundary violation which licensees are forbidden to cross with their patients.

10. The panel finds the respondent by sleeping in the same bed as Patient Number 1 engaged in sexual misconduct which “exploits the licensee-patient relationship, with a patient or a person responsible for health care decisions concerning such patient” in violation of K.S.A. 65-2837(b)(16).

11. The Panel hereby imposes an administrative fine in the amount of \$5,000 against the respondent, Douglas L. Geenens, D.O., pursuant to K.S.A. 65-2863a(a) and the Board’s aforementioned disciplinary guidelines for the licensee’s violation of K.S.A. 65-2837(b)(16).

12. The administrative fine imposed upon the licensee shall be paid either all at once or through twelve monthly installments in the amount of \$416.67 per month commencing March 1, 2010 with each monthly installment to be paid prior to the first day of every month thereafter until such balance is paid in full. In the event that the Board does not receive a payment due and owing, the balance of the fine shall become immediately due and payable in full upon written notice by the Board to Licensee stating that payment has not been received. Failure to make a monthly payment will be considered a violation of an order of the Board which will subject the licensee to discipline pursuant to K.S.A. 65-2836(k).

13. The Panel finds the Board is the prevailing party in this matter. The Panel finds the actions of the respondent to be serious and may have led to the revocation of Dr. Geenens license to practice medicine if not for the considerable amount of time since these events occurred; the intervening Order in Docket No. 05 HA 36 which the respondent successfully completed; and the fact the respondent voluntarily continues to operate within the Order in Docket No. 05 HA 36. The Panel also takes administrative

notice of the fact the Presiding Officer had difficulty in determining a remedy in this matter because of the previously mentioned factors. The Panel takes administrative notice of the fact the Presiding Officer recommends that costs be assessed to the licensee as part of the appropriate remedy. The respondent was found in violation of all allegations that were brought against him. As such, the Panel finds the Board to be the prevailing party. The licensee is responsible for all costs incurred by the Board in prosecuting this matter.

14. The Panel finds pursuant to K.S.A. 65-2846 and K.S.A.65-2878a the Board entered into a contract with Jeff Heinrichs of the law firm of McLeod and Heinrichs to prosecute the respondent in Docket Number 09-HA-00059. The contract calls for the Board to pay Mr. Heinrichs out of pocket expenses associated with the litigation.

15. The Panel finds that Jeff Heinrichs is an agent of the Board within the meaning of K.S.A. 65-2878a.

16. Jeff Heinrichs has submitted a bill in the amount of \$9,624.11 for out of pocket expenses that were incurred in preparing and presenting Docket No. 09-HA-00059 before the Presiding Officer. The Board has paid that bill. The Panel concludes \$9,624.11 is a just and reasonable payment for out of pocket expenses pursuant to K.S.A. 65-2846, K.S.A. 65-2878a and the contract for professional services between Mr. Heinrichs and the Board.

17. The Board has a contract with Appino and Biggs Court Reporting Service for court reporting services and transcripts. The Panel finds that Appino and Biggs Court Reporting Service is an agent of the Board within the meaning of K.S.A. 65-2878a.

18. Appino and Biggs Court Reporting Services submitted a bill in the amount of \$9,208.45 for court reporting and transcription services in connection with Docket No. 09-HA-00059. The Board has paid that bill. The Panel concludes \$9,208.45 is a just and reasonable payment for court reporting services in this matter.

19. The Board contracted with the Office of Hearing Examiners to conduct a hearing in Docket No. 09-HA-00059. Presiding Officer Ed Gaschler spent significant time and effort hearing the case and preparing an Initial Order for the Board's review.

20. The Office of Hearing Examiners submitted a bill in the amount of \$2,345.00 for the services of Presiding Officer Ed Gaschler. The Board has paid that bill. The Panel concludes \$2,345.00 is a just a reasonable payment for Presiding Officer services.

21. The Panel finds pursuant to K.S.A. 65-2846 and K.S.A.65-2878a the Board entered into a contract with Paul Murphy, M.D. to provide expert witness testimony on behalf of the Board in Docket Number 09-HA-00059. The contract calls for the Board to pay Dr. Murphy for his services and out of pocket expenses associated with his testimony in this matter.

22. The Panel finds that Paul Murphy, M.D. is an agent of the Board within the meaning of K.S.A. 65-2878a.

23. Paul Murphy, M.D. has submitted a bill in the amount of \$6,300 for his services and out of pocket expenses that were incurred in preparing and testifying in Docket No. 09-HA-00059. The Board has paid that bill. The Panel concludes \$6,300.00 is a just and reasonable payment for out of pocket expenses pursuant to K.S.A. 65-2846,

K.S.A. 65-2878a and the contract for professional services between Dr. Murphy and the Board.

24. The Panel finds costs in the amount of \$27,477.56 to be just and reasonable under the facts of this case. The Panel orders the respondent, Douglas L. Geenens, D.O., to pay such costs all at once or through twelve monthly installments in the amount of \$2289.80 per month commencing March 1, 2010 with each installment to be paid prior to the first day of every month thereafter until the balance is paid in full. In the event that the Board does not receive a payment due and owing, the balance owing on such costs shall become immediately due and payable in full upon written notice by the Board to Licensee stating that payment has not been received. Failure to make a monthly payment will be considered a violation of an order of the Board which will subject the licensee to discipline pursuant to K.S.A. 65-2836(k).

25. The Panel finds that in order to protect the public, the Consent Order entered into between the Board and the respondent *In the Matter of Douglas L. Geenens*, Docket No. 05 HA 36 dated December 12, 2004 shall remain in force and effect for an additional three years from the date of this Order. The Consent Order *In the Matter of Douglas L. Geenens*, Docket No. 05 HA 36 is not self-terminating and shall only be terminated by further order of the Board.

26. The Panel further finds that to protect the public an additional three years of practice monitoring with an emphasis on prescription writing and record keeping is hereby ordered *In the Matter of Douglas L. Geenens*, Docket No. 09-HA-00059. Dr. Erick M. Kulick is hereby ordered to monitor the practice of the respondent. Dr. Kulick shall select, at random, ten charts per month from the respondent's practice for review.

Dr. Kulick is to submit quarterly reports to the Board. Dr. Kulick is to immediately report to the Board any violations of the healing arts act or the applicable standard of care discovered in the respondent's practice of medicine. The costs of Dr. Kulick's services shall be paid by the respondent. The failure of the respondent to immediately engage Dr. Kulick and pay for his services upon receipt of an invoice shall be considered a violation of an order of the Board which will subject the licensee to discipline pursuant to K.S.A. 65-2836(k).

WHEREFORE, the Board

A. adopts the Presiding Officer's INITIAL ORDER as written and incorporates it by reference;

B. CENSURES the respondent, Douglas L. Geenens;

C. FINES the respondent \$5,000 to be paid as described in this FINAL ORDER for the respondent's violation of K.S.A. 65-2836(k);

D. orders the respondent to pay COSTS in the amount of \$27,477.56 to be paid as described in this FINAL ORDER;

E. extends the terms of the Consent Order *In the Matter of Douglas L. Geenens*, Docket No. 05 HA 36 for an additional three years from the date of this FINAL ORDER;

F. the medical practice of the respondent to be MONITORED for prescription writing and record keeping for three years from the date of this FINAL ORDER with all costs of monitoring borne by the licensee;

G. the terms of this FINAL ORDER are not self-terminating.

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 Interim Executive Director, at 235 SW Topeka Blvd., Topeka, KS 66603.

IT IS SO ORDERED.

DATED: February 4th, 2010.



Betty McBride,
Agency Head Designee
Kansas State Board of Healing Arts

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing FINAL ORDER was served by depositing the same in the United States mail, first-class postage prepaid, this 4th day of ~~January~~, 2010, addressed to:

February

Karen Virgillito
10484 Marty
Overland Park, KS 66212

Douglas L. Geencens, D.O.
4901 W. 136th St.
Overland Park, KS 66224

Jeff Heinrichs
2900 City Center Square
1100 Main Street
Kansas City, MO 64105

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

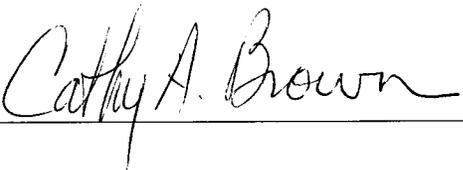
With the original going to:

Kathleen Selzler-Lippert
Interim Executive Director
235 SW Topeka Blvd.
Topeka, KS 66603

And a copy to:

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

Erick M. Kulick, M.D.
8700 State Line Road
Leawood, KS 66206



Cathy A. Brown

CC: Ed Gaschler