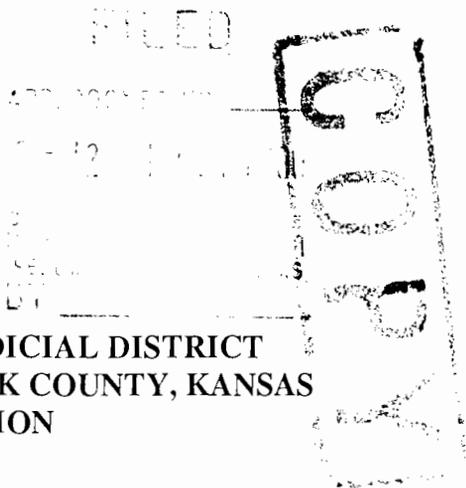


Mark W. Stafford, #13233
235 S. Topeka Blvd.
Topeka, Kansas 66603
(785) 296-2482
Attorney for Respondent



**IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT, SEDGWICK COUNTY, KANSAS
CIVIL DIVISION**

DILLIS L. Hart, M.D.,)
)
 Petitioner,)
)
 v.)
)
 THE BOARD OF HEALING ARTS)
 OF THE STATE OF KANSAS)
)
 Respondent.)
 _____)

Case No. 00-C-2658

JOURNAL ENTRY OF JUDGMENT

NOW ON THIS Sixth Day of October, 2000, comes before the Court a Petition for Judicial Review of an agency order issued by the Respondent Board of Healing Arts. Petitioner appears by and through Thomas A. Wood, Attorney at Law. Petitioner is also present in the courtroom. Respondent appears by and through Mark W. Stafford, Attorney at Law.

Having reviewed the agency record on file with the Court along with the memoranda of counsel, and hearing the statements of counsel, the Court finds, concludes and orders as follows:

1. The Court's role in reviewing agency action is restricted. This restriction arises in part from the separation of powers provision of the Kansas Constitution. It is not the Court's duty to substitute its judgment for that of the agency.
2. Dr. Bletz was not disqualified from presiding at the agency hearing by operation

of K.S.A. 77-525(c). Additionally, the facts in the record did not require him to recuse himself on the basis of bias or prejudice.

3. K.S.A. 60-256 and Supreme Court Rule 141 do not on their own terms apply to a summary judgment motion before an agency. Granting summary judgment without applying those rules of procedure was not a violation of due process. The facts presented in the record supported the summary judgment decision.

4. The record contains sufficient competent evidence to support the agency's findings regarding Petitioner's practice below the standard of care and the agency's findings regarding Petitioner's continuing conduct in violation of the prior agency order.

5. The agency did not base its decision on an erroneous interpretation or application of the law.

6. With regard to the order of summary judgment and the two additional instances of practice below the standard of care, the Court finds that the agency handled the matter according to the rules and not in violation of Constitutional principles.

7. The agency sanctions are not arbitrary or capricious.

It is, therefore, ordered as follows:

1. The Final Order of the Board is affirmed.
2. The judicial stay of the Board's order suspending Petitioner's license is lifted and the Board's action reinstated forthwith, effective October 6, 2000 at 9:20 a.m.

Dated this ____ day of October, 2000.

RICHARD BALLINGER

Honorable Richard T. Ballinger,
District Court Judge
Divi. 13

Prepared by:



Mark W. Stafford, #13233

235 S. Topeka Blvd.

Topeka, Kansas 66603

(785) 296-2482

Attorney for Respondent

Approved by:



Thomas A. Wood, #4851

105 S. Broadway, Ste. 540

Wichita, Kansas 67202-4220

(316) 263-7228

Attorney for Petitioner

Certificate of Service

I certify that a true copy of the foregoing proposed Journal Entry was served this ____ day of October 2000 by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Thomas A. Wood
105 S. Broadway, Suite 540
Wichita, Kansas 67202-4220
