

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

In the Matter of)
)
DAVID B. KEMP, M.D.,)
 Applicant.)
_____)

Docket No. 02-HA-03

F I L E D

AUG 27 2001

KANSAS STATE BOARD OF
HEALING ARTS

FINAL ORDER

NOW ON THIS Eighteenth Day of August, 2001, comes before the Board an application by David B. Kemp, M.D. for a license to practice medicine and surgery. Applicant appears in person. Kelli J. Benintendi, Associate Counsel, appears in response and in opposition to the application.

The material facts are not in dispute, and a conference hearing is the appropriate form of proceeding. After hearing the statements of the parties, the Board finds, concludes and orders as follows:

1. Applicant currently has an active license to practice medicine and surgery in the State of Illinois. He has inactive licenses to practice medicine and surgery in Oklahoma and Iowa.
2. Applicant submitted an application to the Board for licensure by endorsement on May 2, 2001.
3. The application materials disclose that Applicant has been a defendant in legal actions involving professional liability claims, and that professional liability claims have been paid by or on behalf of Applicant.
4. In October 1994 Applicant performed a laparoscopic assisted vaginal

hysterectomy (LAVH) on patient C.T. A surgical clip on the ureter resulted in a non-functioning right kidney. A civil action against Applicant by patient C.T. is pending.

5. In September 1995 Applicant performed an LAVH on patient V.S. Surgical staples penetrating the ureter resulted in a kidney stone. A civil action against Applicant was resolved **Confidential**

6. In September 1995 Applicant performed an LAVH on patient J.F. Surgical stapling damaged the ureter, resulting in abdominal pain. A claim for injury was resolved by a structured settlement **Confidential**

7. In April 1998 Applicant treated patient L.G. Applicant did not diagnose breast cancer. Following the patient's death a civil action was filed against Applicant, resulting in a settlement **Confidential**

8. In April 1999 Applicant performed laparoscopic surgery on patient P.D. to improve urinary incontinence. During the surgery the small bowel was injured. The medical group in which Applicant practices paid **Confidential** for pain and suffering and minimized out of pocket expenses for the patient's care.

9. The Board finds that the care Applicant provided to patients V.S., J.F., L.G. and P.D. resulted in payments related to medical liability claims arising out of the practice of medicine and surgery.

10. K.S.A. 2000 Supp. 65-2836(w) provides that the Board may discipline an existing license, or may deny an application for a new license, upon a finding that the licensee or applicant has an adverse judgment, award or settlement resulting from a medical liability claim related to acts which would constitute grounds for disciplinary action under this section.

11. Practicing the healing arts with professional incompetency constitutes grounds for disciplinary action under K.S.A. 2000 Supp. 65-2836(c). Professional incompetency is defined at K.S.A. 2000 Supp. 65-2837(a) as including repeated acts of ordinary negligence, as determined by the board.


12. The Board concludes that it is proper to either deny the application for a license or to grant a license only on a limited basis. Applicant does not propose acceptable or appropriate limitations that would provide protection to the public.

IT IS, THEREFORE, ORDERED that the application of David B. Kemp, M.D. for a license to practice medicine and surgery should be and is denied.

PLEASE TAKE NOTICE that this is a Final Order. A Final Order is effective upon service. A party may seek reconsideration of a Final Order by filing a petition with the Board within 15 days following service of the Final Order. Reconsideration is not a prerequisite to judicial review. A party may file a petition for judicial review with the District Court within 30 following service of the Final Order. An original petition for reconsideration or a copy of any petition for judicial review must be filed with the Executive Director, 235 S. Topeka Blvd., Topeka, KS 66603.

DATED this 27th Day of August 2001.

Kansas State Board of Healing Arts


Lawrence T. Buening, Jr.
Executive Director

Certificate of Service

I certify that a true copy of the foregoing Final Order was served this 27th day of August 2001 by depositing the same in the United States Mail, first-class postage prepaid and addressed to:

David B. Kemp, M.D.
225 Einhaus
Quincy, IL 62301

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

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