

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED

AUG 16 2004

KANSAS STATE BOARD OF
HEALING ARTS

In the Matter of)
DAVID B. KEMP, M.D.)
Kansas License No. 4-29504)
_____)

Docket No. 04-HA-32

INTERIM AGREED ORDER

COMES NOW the Petitioner, by and through Kelli J. Benintendi, Associate Counsel, and David B. Kemp, M.D. ("Licensee") appearing through counsel, Tom Wright of Wright, Henson, Clark & Baker, LLP, and move the Presiding Officer for approval of a Interim Agreed Order. Based upon their agreement that an assessment by the Center for Personalized Education for Physicians ("CPEP") will provide useful information that will assist the parties in fully resolving the allegations contained in the pending Petition, the Presiding Officer hereby enters into the following Interim Agreed Order:

1. Within ten (10) days of this Interim Agreed Order, Licensee shall contact CPEP, 14001 E. Iliff, Avenue, Suite 206, Aurora, Colorado 80014, (303) 750-7150, fax: (303) 750-7171, to schedule a clinical skills assessment for the earliest dates available to both CPEP and Licensee.

2. Both parties may provide relevant information to CPEP for consideration as part of the clinical skills assessment. In order to permit the Board to provide such relevant information, Licensee shall immediately notify Board Counsel of the assessment dates once the assessment is scheduled.

3. All procedural steps with respect to the pending Petition shall be held in abeyance, upon the filing of this Interim Agreed Order, to provide Licensee time to complete the assessment and to provide both parties time to obtain and review the Assessment Report to determine whether informal resolution of the pending matter is possible.

4. Licensee shall travel to CPEP and complete the assessment as scheduled, at his own expense.

5. Both parties will be provided a copy of the draft Assessment Report for their review. Licensee shall complete any necessary waiver/release so that the Board may receive a copy of the draft Assessment Report for review. However, CPEP will issue its formal Assessment Report, in accordance with its internal policies;

6. Once the parties receive the final Assessment Report, they shall have thirty (30) days in which to explore the possibility of informal resolution. If the parties reach a tentative informal resolution, they shall present their proposed agreement to the Board at its next regular scheduled meeting. If the parties have not reached an informal resolution within thirty (30) days time frame, a prehearing conference will be scheduled so that a new hearing date may be set or other appropriate action scheduled.

7. If the parties proceed to evidentiary hearing following the assessment, the parties stipulate and agree that the Assessment Report will be admitted into evidence, to be considered fully by the Presiding Officer, without requiring CPEP's Medical Director to appear as a witness to either provide an evidentiary foundation for the Report or to provide substantive testimony relating to the Report's testing procedures, opinions and/or conclusions. However, if either party wishes to examine any person employed by CPEP regarding the contents of the report, the party may call such person as a witness, but is fully responsible for arranging for their attendance and for paying any necessary witness fees.

8. The parties agree that this Interim Agreed Order does not constitute a final agency action in this matter. Accordingly, it shall not be reported to the National Practitioner Data Bank.

However, it is subject to any applicable provisions for disclosure under the Open Records Act.

IT IS SO ORDERED this 14th day of August, 2004.


Roger D. Warren, M.D.
Presiding Officer

Prepared by:


Kelli J. Benintendi, #16032
Associate Counsel
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Approved by:


Thomas E. Wright
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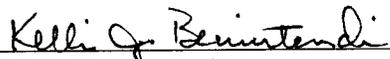
CERTIFICATE OF SERVICE

I, Kelli J. Benintendi, Associate Counsel, Kansas State Board of Healing Arts, hereby certify that I served a copy of the above **Interim Agreed Order** by depositing the same in the U.S. mail, postage prepaid, on this the 16th day of August 2004, addressed to:

Thomas E. Wright
Wright, Henson, Clark & Baker, LLP
100 SE 9th St., 2nd Floor
P.O. Box 3555
Topeka, Kansas 66601-3555

and the original was hand-delivered for filing to:

Lawrence T. Buening, Jr.
Executive Director
Kansas State Board of Healing Arts
235 South Topeka Boulevard
Topeka, Kansas 66603-3068



Kelli J. Benintendi
Associate Counsel