

BEFORE THE KANSAS STATE BOARD OF HEALING ARTS

In the Matter of
CESAR V. MENEZ, M.D.
Kansas License Number 15414

Case Number: 88-DC-0037

ORDER OF EMERGENCY SUSPENSION OF LICENSE

NOW on this 16th day of April, 1988, the above-entitled matter comes before the Board pursuant to K.S.A. 1987 Supp. 65-2338 and K.S.A. 1987 Supp. 77-536.

After reviewing the investigative file and being duly advised in the premises, the Kansas State Board of Healing Arts (hereinafter referred to as "Board") finds as follows:

I. FINDINGS OF FACT

1. That, Cesar V. Menez, M.D. (hereinafter referred to as "Licensee") is currently licensed to practice medicine and surgery in the State of Kansas and holds license number 15414.
2. That, evidence concerning alleged violations of the Kansas Healing Arts Act by Licensee was presented to the Board by the Disciplinary Counsel on April 16, 1988.
3. That, the Disciplinary Counsel presented evidence that Licensee had sexual intercourse with patient "A" on at least two occasions while Licensee was this patient's treating physician.
4. That, the Disciplinary Counsel presented evidence that Licensee prescribed and dispensed controlled substances to patient "A" for nonmedical purposes.
5. That, the Disciplinary Counsel presented evidence that on December 10, 1987, Licensee voluntarily surrendered his controlled substance writing privileges for Schedule II and 2N on his United States Drug Enforcement (DEA) registration numbers AM5341867 and BM0736744 while under investigation by DEA. (See Exhibit #1, attached.)
6. That, the Disciplinary Counsel presented evidence that on December 16, 1987, Licensee voluntarily surrendered his Missouri DEA registration number BM0736744 because he lacked authorization to handle controlled substances. (See Exhibit #2, attached.)
7. That, the Disciplinary Counsel presented evidence that Licensee presently possesses controlled prescription writing privileges in Kansas for Schedules 3, 3N, 4 and 5 for an office at 4121 W. 83rd Street, Suite 120, Prairie Village, Kansas 66208.
8. That, the Disciplinary Counsel presented evidence that Licensee presently is the treating physician for patients who are citizens of the State of Kansas.
9. That, the Disciplinary Counsel presented evidence that a review of Licensee's patient records revealed that on more than one occasion, Licensee prescribed controlled substances to patients in a manner which is an immediate danger to the public health, safety, and welfare of the citizens of the State of Kansas.
10. That, the Disciplinary Counsel presented evidence that a review of Licensee's patient records and insurance claim forms revealed discrepancies.
11. That, the Disciplinary Counsel presented evidence that a Petition for the Revocation, Suspension, or Other Disciplinary Action Against Licensee was filed on September 25, 1987. (See Exhibit 3, attached.)

12. That, Disciplinary Counsel presented evidence that all information presented to the Board on April 16, 1988 has been accumulated, discovered, or acquired after the time said Petition was filed.

13. That, findings of the Board were that there was cause to believe that Licensee had violated the Kansas Healing Arts Act in the following respects:

(a) That, Licensee may be professionally incompetent in that he has exhibited a pattern of practice or other behavior which demonstrates a manifest in capacity or competence to practice medicine contrary to K.S.A. 1987 Supp. 65-2836(b) and K.S.A. 1987 Supp. 65-2837(a)(3).

(b) That, Licensee may have knowingly submitted misleading, deceptive, untrue, or fraudulent representations on claim forms, bills, or statements contrary to K.S.A. 1987 Supp. 65-2836(cc).

(c) That, Licensee may have committed an act of unprofessional conduct by prescribing amphetamines or sympathomimetic amines in a manner not authorized by K.S.A. 65-2837a.

(d) That, Licensee may have committed an act of unprofessional conduct by prescribing a prescription drug or substance, including a controlled substance in an excessive, improper, or inappropriate manner or quantity or not in the course of the Licensee's professional practice contrary to K.S.A. 1987 Supp. 65-2837(23).

(e) That, Licensee may have committed an act of unprofessional conduct by committing an act of sexual abuse, misconduct or exploitation related to the Licensee's professional practice upon patient "A" contrary to K.S.A. 1987 Supp. 65-2837(16).

(f) That, Licensee may have committed an act of unprofessional conduct by exhibiting conduct likely to deceive, defraud, or harm the public contrary to K.S.A. 1987 Supp. 65-2837(12).

(g) That, Licensee may have committed an act of unprofessional conduct by the use of false, fraudulent, or deceptive statements in documents connected with the practice of the healing arts, specifically insurance billing statements contrary to K.S.A. 1987 Supp. 65-2837(17).

(h) That, Licensee may have committed an act of unprofessional conduct by obtaining any fee by fraud, deceit, or misrepresentation from patients or insurance carriers contrary to K.S.A. 1987 Supp. 65-2837(18).

(i) That, Licensee may have committed acts of unprofessional conduct by performing unnecessary tests, examinations, or services which have no legitimate purpose contrary to K.S.A. 65-2837(21).

(j) That, Licensee may have committed an act of unprofessional conduct by failing to keep written medical records which describe the services rendered to the patient including patient history, pertinent findings, examination results, and test results contrary to K.S.A. 1987 Supp. 65-2837(25).

14. That, the aforementioned findings constitute probable cause to believe that the actions and conduct of the Licensee violate 65-2836 to 65-2844 inclusive, and amendments thereto, and thereby may result in the revocation, suspension, or limitation of license of Licensee.

15. That, the specific provisions of the Kansas Healing Arts Act for which probable cause exists to believe that the Licensee has violated are: 65-2836(b), 65-2837(a)(3), 65-2836(cc), 65-2837a, 65-2837(23), 65-2837(16), 65-2837(12), 65-2837(17), 65-2837(18), 65-2837(21), and 65-2837(25).

II. CONCLUSIONS OF LAW AND POLICY REASONS

1. That, there is cause to believe grounds exist under K.S.A. 65-2836 to 65-2844 inclusive, and amendments thereto for the revocation, suspension, or limitation of Licensee's license.
2. That, prior actions taken by the Board and Licensee to attempt to resolve these matters without emergency adjudicative proceedings have been unsuccessful and Licensee still holds a current license to practice medicine and surgery in the State of Kansas.
3. That, due to the alleged violations of the Kansas Healing Arts Act by Licensee, there is an immediate and eminent danger to the public health, safety, or welfare of the residents of the State of Kansas which can only be prevented or avoided by the immediate emergency suspension of Licensee's license.
4. That, the necessary action which must be taken by the Board to prevent or avoid the immediate danger to the public health, safety or welfare of the residents of the State of Kansas is to suspend the license of Licensee and thereby prohibit Licensee from practicing medicine and surgery in the State of Kansas while he remains in violation of the Kansas Healing Arts Act as above stated.

NOW, THEREFORE IT IS BY THE BOARD CONSIDERED AND ORDERED:

1. That, the Findings, and Conclusions of Law and Policy Reasons hereinabove made and set forth be, and the same are hereby made the order of the Board.
2. That, the license of Licensee is hereby suspended.
3. That, such suspension of Licensee's license shall remain in effect until further order of the Board.
4. That, this Order shall take effect immediately.
5. That, a copy of this Order shall be served upon Licensee and his attorney of record, Mr. Harry Reece, by certified mail.

IT IS SO ORDERED.

April 16, 1988
Date

Richard A. Uhlig
Richard A. Uhlig, D.O.
Interim Executive Director - "Board"

Prepared by Joseph M. Furjanic
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CERTIFICATE OF SERVICE

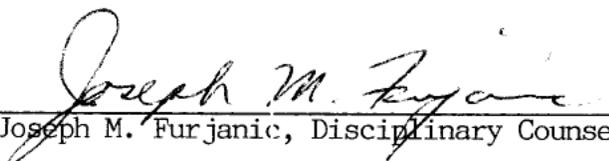
I, Joseph M. Furjanic, Disciplinary Counsel for the Kansas State Board of Healing Arts hereby certify that I served the attached Order of Emergency Suspension of License by placing said Order in the United States mail, certified, this 3rd day of May, 1988.

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