

**FILED**

DEC 11 2001

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

**KANSAS STATE BOARD OF  
HEALING ARTS**

**In the Matter of** )  
)  
**GEORGE MEREDITH, M.D.** )  
**Kansas License No. 4-24291** )  
\_\_\_\_\_ )

**Docket No. 01-HA-10**

**FINAL ORDER**

NOW ON THIS Eighth Day of December, 2001, this matter comes before the Board to review the Initial Order issued by Howard D. Ellis, Presiding Officer and to assess costs of the proceeding. Kelli J. Benintendi appears for the Board. Respondent does not appear either in person or through counsel.

Having the record before it, and upon a motion duly made, seconded and adopted by a majority of the Board present and participating, the findings, conclusions and order stated in the Initial Order are adopted as the findings, conclusions, and Final Order of the Board. Costs are assessed against Respondent in the amount of \$8219.42, as provided by K.S.A. 65-2846.

**IT IS THEREFORE, ORDERED** that the license of George Meredith, M.D. is hereby revoked.

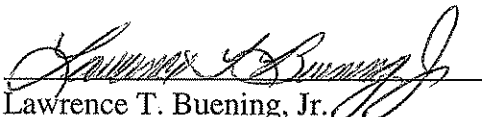
**IT IS FURTHER ORDERED** that George Meredith, M.D. pay costs to the Board in the amount of \$8219.42.

**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. 77-610, et seq. Reconsideration of the

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 the Board's executive director at 235 S. Topeka Blvd., Topeka, KS 66603.

DATED THIS 10<sup>th</sup> Day of December, 2001.

Kansas State Board of Healing Arts

  
Lawrence T. Buening, Jr.  
Executive Director

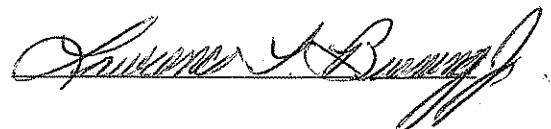
#### Certificate of Service

I certify that a true copy of the foregoing Final Order was served this 11<sup>th</sup> day of December, 2001 by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

George Meredith, M.D.  
2318 Washington  
Great Bend, Kansas 67530

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

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



BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

**FILED**

**JUN 11 2001**

In the Matter of )  
 )  
GEORGE MEREDITH, M.D. )  
Kansas License No. 4-24291 )  
\_\_\_\_\_ )

**KANSAS STATE BOARD OF  
HEALING ARTS**

Docket No. 01-HA-10

**EMERGENCY ORDER and  
PREHEARING ORDER**

NOW ON THIS Twenty-sixth Day of April, 2001, Petitioner's Motion for Order Temporarily Suspending License comes on for hearing. Kelli J. Benintendi, Associate Counsel, appears for Petitioner. Respondent George M. Meredith, M.D., appears *pro se*.

Petitioner presents witnesses and exhibits in support of the motion and rests. The hearing is recessed until May 3, 2001.

Thereupon, on the Third Day of May, 2001, the matter comes on for a status conference. Kelli J. Benintendi, Associate Counsel, appears for Petitioner. The Presiding Officer orders that the alleged incident involving employees of Blue Cross and Blue Shield, which is the subject of a civil proceeding pending in Shawnee County District Court, will not be the basis for an emergency order in the present case. Further testimony on that issue will not be allowed during the hearing on the motion. Completion of the hearing is set to commence May 10, 2001.

Brian C. Wright, Attorney at Law, files a written entry of appearance on May 9, 2001 and requests a continuation of the May 10 hearing. For good cause shown, the hearing is continued and in its place a status conference is set for May 10.

Thereupon, on the Tenth Day of May, 2001, this matter comes on for a status conference. Kelli J. Benintendi, Associate Counsel, appears for Petitioner. Brian C. Wright, Attorney at Law,

appears for Respondent. Counsel for Respondent states that Respondent is willing to refrain from the practice of medicine and surgery until the conclusion of the emergency hearing. A prehearing conference is set for May 16, 2001.

Thereupon, on the Sixteenth Day of May, 2001, this matter comes on for a prehearing conference. Kelli J. Benintendi, Associate Counsel, appears for Petitioner. Brian C. Wright, Attorney at Law, appears for Respondent. Prehearing orders are issued, as more fully set out below. Completion of the hearing is set to commence on May 31, 2001. Respondent will call as witnesses Dr. Gillenwater, Dr. Klosterhoff, and Dr. Law-Yone. Those individuals' prior testimony in this matter is part of the agency record and will not be duplicated.

Respondent files a motion to resume his *pro se* appearance, citing irreconcilable differences with counsel. For good cause shown, the motion is granted.

Thereupon, on the Thirty-first Day of May, 2001, this matter comes on for completion of the hearing on Petitioner's Motion for Order Temporarily Suspending License. Kelli J. Benintendi, Associate Counsel, appears for Petitioner. Respondent appears *pro se*. After hearing the testimony, and having the agency record before him, the Presiding Officer finds, concludes, and orders as follows:

1. Respondent is licensed by the Board to practice medicine and surgery, a branch of the healing arts. His practice specialty is Otolaryngology. He resides and primarily practices in Great Bend, Kansas.

2. Respondent is currently under a Stipulation Agreement and Enforcement Order with the Board, filed November 10, 1992. **(Confidential)**

**(Confidential)**

(Confidential)

(Confidential)

3. This proceeding was initiated by a Petition to Revoke, Suspend, or Otherwise Limit the License of Respondent. This petition was filed October 6, 2000. A separate prior proceeding had been instituted (Confidential)

(Confidential)

That petition was filed September 5, 2000 under case number 00-HA-07. (Confidential)

(Confidential)

4. (Confidential)

(Confidential)

A hearing on that motion was held on October 10, 2000. The Presiding Officer issued an order dated October 27, 2000 denying that motion. The motion did not identify any instances of Respondent's conduct affecting patient care. (Confidential)

(Confidential)

question whether Respondent's practice of the healing arts creates a danger to the public. But the Presiding Officer did not find that there was conduct to support an allegation of an imminent danger. The Presiding Officer ordered that the formal proceeding upon the Petition to Revoke, Suspend or Otherwise Limit Licensure advance without delay. A prehearing conference was set for October 31 to set a discovery and prehearing schedule.

5. (Confidential)

(Confidential)

**(Confidential)**

A discovery order was issued November 30, 2000 **(Confidential)**

**(Confidential)**

(Confidential)

(Confidential)



**(Confidential)**

24. Patient D.L. contacted Respondent by telephone in the latter part of January 2001. The purpose for the contact was the patient's sleep apnea and his interest in treating the condition surgically. Respondent set an appointment for the patient for February 6, 2001. Prior to the

appointment Respondent had the patient get a chest x-ray, CT and echocardiogram.

25. The first x-ray for Patient D.L. as ordered by Respondent was taken on January 25, 2001. The report was dated that same day, and did not disclose any heart disease. Respondent requested a second x-ray, taken on February 2, 2001. That report stated that no acute cardiopulmonary pathology was demonstrated, and that the heart, mediastinum and pleural surfaces appeared unremarkable. The echocardiography report indicated a normal study.

26. Also prior to the scheduled appointment Respondent sent the patient a packet of materials through the mail. This packet contained information about the surgery and preoperative and postoperative instructions. The packet also included small envelopes containing pills.

27. One of the envelopes in the packet that Respondent mailed to Patient D.L. contained Nembutal. This is a prescription-only drug scheduled as a controlled substance. The drug is a narcotic used for sleep. It is contraindicated for a patient with sleep apnea because the patient may stop breathing and die.

28. Another of the envelopes in the packet that Respondent mailed to Patient D.L. contained Tigan, a prescription-only anti-nausea medication.

29. Patient D.L. had a telephone conversation with Respondent a few days prior to the February 6 appointment. Respondent asked which pharmacy Patient D.L. used and told him that he would call in a prescription. Respondent had apparently diagnosed right-sided congestive heart failure (cor pulmonale), but had not informed Patient D.L. of the diagnosis. The clinical reports available to Respondent at the time argue strongly against the presence of any congestive heart failure. Respondent ordered Lanoxin (digoxin), a medication used to treat congestive heart failure. When Patient D.L. picked up the prescription, the pharmacist advised that the medication was for

heart problems, and that the drug should not be taken without first consulting with the patient's personal physician.

30. Kenneth Scheinberg, M.D. specializes in otolaryngology, and is board certified in that specialty by the American Academy of Otolaryngology, Head and Neck Surgery. He practices in Wichita, Kansas. Dr. Scheinberg stated unequivocally that mailing Nembutal, Tigan and prescribing Lanoxin to a patient whom the physician has never seen and examined is below the standard of care. He referred to the practice as outrageous. Respondent appeared to be indifferent as to the consequences of providing the drugs without having first examined the patient, and instead argued that the drugs were indicated. The Presiding Officer finds the testimony of Dr. Scheinberg to be credible and persuasive.

31. **(Confidential)**  
**(Confidential)**

33. **(Confidential)**  
**(Confidential)**

34. The Presiding Officer finds that Respondent failed to adhere to the standard of care to a degree that constitutes gross negligence by dispensing a drug Nembutal that is both a narcotic and a controlled substance, and by dispensing a prescription-only drug Tigan to a patient without first examining the patient. By his own admission, Respondent has engaged in similar conduct on multiple occasions, and without acknowledging the danger to the patients justified his actions by

noting that patients would have to travel several miles to be examined by him prior to dispensing or prescribing the drugs. The Presiding Officer does not find that the distance a patient would have to travel mitigates the degree of negligence by this practice.

35. The Presiding Officer finds that Respondent failed to adhere to the standard of care to a degree that constitutes gross negligence by prescribing Lanoxin to a patient without first examining the patient.

36. The Presiding Officer finds that Respondent failed to adhere to the standard of care to a degree that constitutes ordinary negligence by diagnosing a patient with congestive heart failure when the appropriate clinical tests not only fail to support the diagnosis, but actually argue strongly against the diagnosis.

37. At the conclusion of the February 6 appointment the patient informed Respondent that he was not going to have the surgeries.

38. Following the February 6 appointment Respondent wrote a clinical note regarding the patient. The clinical note includes a statement that the patient has excessive daytime sleepiness which bothers him while he is driving to and from work. The typed clinical note had an underlined statement in bold type face that the patient says he can barely make it to work because he is so sleepy. The patient had not told Respondent these things, and testified that they were indeed not true. The patient also testified that he has never fallen asleep while driving or become so sleepy that he had to pull over.

38. Respondent sent a copy of the clinical note regarding Patient D.L. to the Kansas Department of Revenue Division of Vehicles, the Kansas Highway Patrol, John Knack who is the CEO of Blue Cross and Blue Shield of Kansas, and to two physicians. The patient did not consent

to the release of the record.

39. The Division of Vehicles informed Patient D.L. by a letter dated March 9, 2001 that they had received information regarding his ability safely to operate a motor vehicle. The department required additional medical information to be provided within thirty days, the failure of which would warrant revocation of the driver's license.

40. The patient obtained a physical examination from Edward Mangosing, M.D. who determined that the patient does not have any heart disease or cardiovascular impairments, and was physically and mentally capable of safely operating a motor vehicle. Dr. Mangosing provided this information to the Division of Vehicles.

41. **(Confidential)**

**(Confidential)**

42. **(Confidential)**

**(Confidential)**

43. The Presiding Officer concludes that Respondent did not have a professional or a legal duty to provide a copy of Patient D.L.'s patient record to the division of vehicles and the highway patrol. K.S.A. 2000 Supp. 8-255c makes clear that a physician is not required by law to volunteer information to the Division of Vehicles as to the mental or physical condition of any patient. Without a requirement for disclosure, the physician-patient privilege established by K.S.A. 60-427 was intact at the time Respondent made the disclosure. The relevant exception to that

privilege, appearing at subsection (e)(2), does not apply because the motor vehicle statutes do not require the physician to disclose the patient's information. The Presiding Officer concludes that willfully betraying confidential information constitutes unprofessional conduct, as defined at K.S.A. 2000 Supp. 65-2837(b)(6).

44. The Presiding Officer concludes that the failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as described in paragraphs 34 and 35, is professional incompetency, as defined by K.S.A. 2000 Supp. 65-2837(a). The phrase "gross negligence" means a deviation from the standard of care accompanied by a realization of the imminence of danger or a complete indifference to the probable consequences of the negligent act.

45. The Presiding Officer finds and concludes that ordering or dispensing prescription-only drugs, including a controlled substance, without first examining the patient, and by basing a decision to prescribe drugs upon clinical evidence that argues strongly against the diagnosis for which the drug is prescribed, demonstrates a manifest incapacity or incompetence to practice medicine. The Presiding Officer concludes that this constitutes professional incompetency as defined by K.S.A. 2000 Supp. 65-2837(a).

46. The Presiding Officer finds that the unprofessional conduct and the professional incompetency are the result of extremely poor judgment rather than of technical deficiency. These

**(Confidential)**

These errors also

constitute significant risks to patients. **(Confidential)**

**(Confidential)**

47. The Presiding Officer concludes that by mailing the drugs to Patient D.L. in an envelope, Respondent has violated K.A.R. 100-21-3 regarding the packaging of medications. This

regulation requires drugs to be dispensed in a child resistant container in accordance with the federal poison prevention packaging act of 1970. This regulation is intended to protect the public health, safety and welfare.

48. The Board is authorized pursuant to K.S.A. 65-2838(c) to temporarily suspend or limit a license in accordance with K.S.A. 77-536 if the Board determines that grounds exist for disciplinary action and continuation in practice constitutes an imminent danger to the public health and safety.

**IT IS, THEREFORE, ORDERED** that the license of George Meredith, M.D. is indefinitely suspended. This suspension shall continue until vacated by the Presiding Officer or until otherwise ordered by the Board.

**IT IS FURTHER ORDERED** that the following prehearing orders will govern the completion of the proceeding:

1. Petitioner may serve an Amended Petition to Revoke, Suspend, or Otherwise Limit Licensure on or before June 8, 2001.
2. A telephone conference is set for June 13, 2001 at 11:00 a.m. No further notice of hearing will be given.
3. The parties shall exchange all records regarding this matter that are not subject to a statutory privilege on or before June 29, 2001. Any record not disclosed by that date will not be admitted as evidence unless authorized by the Presiding Officer prior to the hearing. Any motion to allow undisclosed records must be accompanied with an explanation for the non-disclosure.
4. All depositions shall be completed by July 27, 2001. Rules of Civil Procedure regarding depositions and use of depositions at trial, specifically K.S.A. 60-230 and 60-232.

5. The Presiding Officer will take official notice of all records, including pleadings, exhibits, and testimony previously filed, admitted or given in this and prior Board proceedings involving Respondent. Duplication of testimony will not be allowed unless good cause is shown.

6. A formal hearing was scheduled to commence August 2, 2001, at 8:30 a.m. in the Board office, 235 S. Topeka Blvd., Topeka, Kansas. Respondent requested that the trial date be left open so that completion of the hearing would occur sooner. A trial date will be discussed and set during the June 13 prehearing conference.

7. Subpoenas for depositions and for the formal hearing may be requested on or before July 6, 2001. Each request shall indicate the subject matter of the expected testimony of the witness. A copy shall be served upon the opposing party. Written objection to any request for a subpoena may be filed on or before July 16, 2001. Service of each subpoena authorized shall include a check as in civil cases for one day's witness fee in the amount of \$10 and round-trip mileage at the rate of \$.325 per mile.

8. Witnesses who have not previously testified in person at another stage of this proceeding will not be permitted to testify by telephone, by prior testimony, or by deposition unless the deposition is videotaped. While personal attendance does increase the cost to both parties, the Presiding Officer anticipates that there will be conflicting testimony that will only be resolved by considering the credibility of the witnesses.

9. Any testimony given in person at another stage of this proceeding need not be repeated.

10. The Presiding Officer is not necessarily bound by technical rules of evidence. Admitting evidence will lie within the discretion of the Presiding Officer. However, those technical



rules are designed to assist a trier of fact in resolving conflicting testimony. The parties will be expected to adhere to the rules of evidence contained in K.S.A. Article 60, Chapter 4 regarding any disputed fact except that original documents may be substituted by copies if there is no dispute as to a document's authenticity. Evidence is not necessarily disqualified merely because it is hearsay. The Presiding Officer will consider admission of hearsay evidence on a case-by-case basis. The parties may but will not be required to waive objection to the proper foundation of evidence.

11. Administrative agencies are not bound by technical rules of pleading. The form of pleadings lies within the sound discretion of the Presiding Officer. All pleadings shall conform to the following rules of procedure, which are hereby adopted by reference: Kan. S. Ct. Rules 111, 119, 141, K.S.A. 60-205, and 60-211.

12. The rule of courtroom decorum appearing at K. S. Ct. Rule 161 is hereby adopted by reference. This rule will be extended to apply to Respondent who appears *pro se*. For purposes of this rule, a personal computer does not constitute a recording device.

**IT IS FURTHER ORDERED** that a protective order should be in place to prevent the disclosure of private information while a formal hearing on the allegations is pending, or until such time as a final order is issued. The parties are hereby ordered not to disclose the identity of Patient D.L. without his written consent. **(Confidential)**

**(Confidential)**

**(Confidential)**

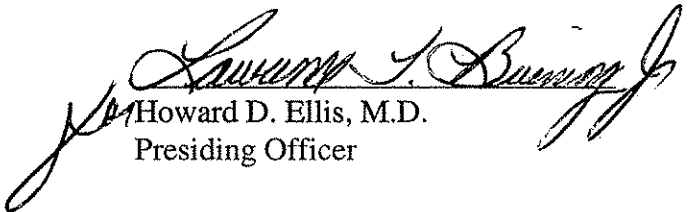
This protective order shall not preclude the parties from using the protected information in this or related proceedings before the Board or duly appointed presiding officers, or from using the protected information on review or appeal, or from disclosing information to witnesses in preparation of

litigation. A copy of this order may be released to the public only after the protected information has been removed.

**PLEASE TAKE NOTICE** that this is an emergency order and is effective when issued. A party may seek review of this order by filing a petition for review by the full Board. The Board next meets on June 23, 2001. A petition for review must be filed within 15 days following service of this order by delivery to Lawrence T. Buening, Jr., Executive Director, 235 S. Topeka Blvd., Topeka, Kansas 66603.

DATED THIS 11<sup>th</sup> Day of June, 2001.

Kansas State Board of Healing Arts

  
Howard D. Ellis, M.D.  
Presiding Officer

**Certificate of Service**

I certify that a true copy of the foregoing order was served this 17<sup>th</sup> day of June, 2001 by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

George Meredith, M.D.  
2318 Washington  
Great Bend, Kansas 67530

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

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

