

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

OCT 29 1990

IN THE MATTER OF)
)
WALTER S. MURPHY, D.P.M.)
Kansas License No. 12-00133)

KANSAS STATE BOARD OF
HEALING ARTS
Case No. 90-DC-0190

FINAL ORDER

This matter comes on for consideration on this 13th day of October, 1990 before the Kansas State Board of Healing Arts (hereinafter referred to as "Board").

Members present are: Franklin Bichlmeier, M.D.; Donald Bletz, M.D.; Jimmy Buller, D.O.; Edward Fitzgerald, M.D.; Tom Greene, D.C.; Cameron Knackstedt, D.O.; Graciela Marion; Glenn Kerbs, Irwin Waxman, DPM; Kenneth Wedel, M.D., Mark J. Hatesohl, D.C.; Joseph Philipp, M.D.; and Ron Zoeller, D.C.

The Kansas State Board of Healing Arts appears by and through its Litigation Counsel, Steve A. Schwarm. Walter S. Murphy, DPM (hereinafter referred to as "Licensee") appears by and through his attorney, Daniel D. Creitz, of Hines, Ahlquist and Creitz, Attorneys at Law. Licensee also appears in person. The Board, having been advised and presented copies of the disciplinary Petition filed August 17, 1990 and upon acknowledgement from Licensee that notice of this proceeding was provided at least ten (10) days in advance of October 13, 1990 determined that statutory notice of these proceedings is in compliance with the Kansas Administrative Procedure Act. Therefore, service is by the Board approved and the Board has jurisdiction to consider this matter.

Thereupon, the Board having examined the evidence, heard the arguments of counsel and reviewing the records made, the following Findings of Fact and Conclusions of Law are made and entered:

FINDINGS OF FACT

1. Licensee has been issued license number 12-00133 of the Kansas State Board of Healing Arts to engage in the practice of Podiatry in the State of Kansas. Licensee, was at the time of the incident and at the present time, as set forth in the disciplinary Petition, a Doctor of Podiatric Medicine in the State of Kansas.

2. The Board acknowledges that Licensee waives formal reading of the Count as set forth in the Amended Petition.

3. Licensee enters a plea of "no contest" to Count 1 as set forth in the disciplinary Petition. A plea of "no contest" is established and accepted by the Board based on a test of the plea of "no contest" administered by Litigation Counsel. Licensee indicated that he understood his options in entering a plea to Count 1 as set forth in the disciplinary Petition to include the allegations as being sufficient grounds for a full adjudicative disciplinary hearing in which evidence and witnesses could be presented to support those alleged violations. Licensee acknowledges that it was his legal right as a Licensee in this case to hear the evidence against him, confront and cross-examine the Petitioner's witnesses and present evidence and witnesses on his own behalf. Licensee acknowledges that if he would enter a plea to admit to the violation, the alleged violation as set forth in

the Amended Petition would be accepted as true and after a review of those facts, the Board would impose appropriate disciplinary sanctions based on the plea of admission. Licensee was also advised and acknowledged that if he did contest and deny the charge the Board may proceed to a full adjudicative hearing in this matter. Licensee further acknowledged that he understood his option to enter the equivalent of a plea of "no contest" in which he would not admit or deny the alleged violations and that he would not contest, defend or challenge the allegations as set forth in the Amended Petition. Licensee acknowledged in the affirmative that entering a response of "no contest" to the Count would lead directly to the imposition of appropriate disciplinary sanctions as set forth in the Count in the Amended Petition to be accepted as true. Licensee was sworn and under oath; Licensee indicated that he understood his options and he desired to enter a plea to the Count; Licensee is the identified holder of license number 12-00133 in the case; Licensee acknowledged receipt of the Petition in this case; Licensee acknowledged he was satisfied with counsel and legal representation and advice given by his attorney in this case; Licensee acknowledged in the affirmative that his plea of "no contest" was freely and voluntarily given and of his own free will and volition; and Licensee acknowledges that no intimidation or threats of any type had been used to obtain the plea of "no contest" in this case. Additionally, Licensee acknowledged in the affirmative that he was not under the influence of any chemical,

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mental or physical impairment which would inhibit the voluntariness of the plea. Based on the above test of the plea it is the position of the Board that the plea of "no contest" is freely and voluntarily given and is hereby accepted.

CONCLUSION OF LAW

1. The Kansas State Board of Healing Arts has jurisdiction over Licensee, Walter S. Murphy, DPM, Kansas license number 12-00133, pursuant to the Kansas Podiatry Act K.S.A. 65-2001 et seq.

2. K.S.A. 1989 Supp. 65-2006 permits the Board to discipline a Doctor of Podiatry in compliance with the Kansas Administrative Procedure Act and upon proof or plea of admission, or "no contest" that Licensee has been found in violation of the Kansas Podiatry Act.

a) Entering a plea of "no contest" by Licensee in Count 1 of the Amended Petition filed before the Kansas State Board of Healing Arts constitutes an act of non-compliance which shall be treated as a violation of K.S.A. 1989 Supp. 65-2006 as further defined in K.S.A. 1989 Supp. 65-2837 and K.S.A. 65-2002(b).

Therefore, pursuant to a motion duly made, seconded and unanimously passed, Licensee is found in non-compliance with the Kansas Podiatry Act, K.S.A. 65-2001 based on Licensee's plea. Whereupon, pursuant to a motion duly made, seconded and unanimously passed, license of Licensee is hereby limited and Licensee is

placed under a Kansas Podiatry Act Compliance Monitoring Program to be administered by the Kansas Board of Healing Arts legal section and Licensee is hereby fined an administrative sum of one thousand six hundred dollars (\$1,600). Such administrative fine of \$1,600 shall be due and payable in the Board office no later than thirty (30) days from the effective date of this Order.

It is therefore ordered and decreed by the Board that Licensee's license to practice as a Doctor of Podiatry in the State of Kansas is hereby limited effective the date of the authorized signature listed below. Such limitation shall include Licensee's compliance with the Kansas Podiatry Act Compliance Monitoring Program and payment of the administrative fine.

This Order is effective upon service, pursuant to K.S.A. 77-530. Any party within fifteen (15) days after service of this Final Order may file a petition for reconsideration pursuant to K.S.A. 77-529.

IT IS SO ORDERED this 25th day of October,
1990.

KANSAS STATE BOARD OF HEALING ARTS

Confidential

Franklin Bichlmeier, M.D.
President

Prepared and Approved by:



Steve A. Schwarm, #13232
Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603
(913)296-7413

CERTIFICATE OF SERVICE

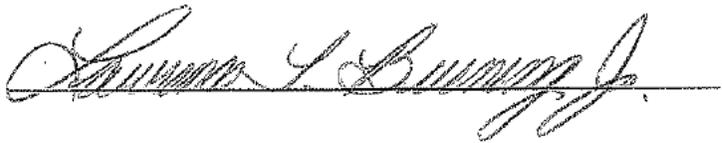
I, Lawrence T. Buening, Jr., General Counsel for the Kansas State Board of Healing Arts do hereby certify that on this 29th day of October, 1990, a true and correct copy of the above **FINAL ORDER** was forwarded by United States first-class mail, postage prepaid to:

Daniel D. Creitz
Hines, Ahlquist & Creitz, P.A.
P.O. Box 108
Erie, Kansas 66733

Walter S. Murphy, DPM
Confidential
Parsons, Kansas 67357

and a true and correct copy of the above **FINAL ORDER** was hand delivered to:

Steve A. Schwarm
Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603



FINAL ORDER
Walter S. Murphy, D.P.M.