

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED

JUL 24 2001

In the Matter of)
)
MICHAEL HANS NIELSON, M.D.)
Application for Reinstatement of)
License to Practice Medicine and Surgery)
_____)

Docket No. 01-HA-32

KANSAS STATE BOARD OF
HEALING ARTS

**ORDER GRANTING APPLICATION FOR REINSTATEMENT
OF LICENSE TO PRACTICE MEDICINE AND SURGERY
WITH LIMITATION**

NOW on this 23rd day of June, 2001, comes on for conference hearing before the Kansas State Board of Healing Arts ("Board") the Application for Reinstatement of License to Practice Medicine and Surgery filed in the above-entitled matter on October 18, 2000. Michael Hans Nielson, M.D. ("Applicant") appears in person pro se. Respondent appears by and through Shelly R. Wakeman, Disciplinary Counsel ("Respondent").

After hearing arguments of counsel, the testimony of Applicant, reviewing the file, the First Amended Answer in Opposition to Application for Reinstatement filed by Respondent, and the exhibits admitted as evidence, the Board makes the following findings and orders:

1. Applicant was originally issued license number 4-14225 on July 1, 1969, and was entitled to practice medicine and surgery in Kansas. Applicant's license was canceled for failure to renew the license on August 1, 1996.
2. On October 18, 2000 Applicant submitted his Application for Reinstatement of a License to Practice Medicine and Surgery. He reported discipline in Missouri,

voluntary surrender of his DEA Controlled Substances Registration in lieu of a show cause hearing and later, DEA Controlled Substances Registration granted with restrictions on his ability to possess and dispense certain controlled substances, loss of hospital privileges and malpractice settlements.

3. On November 8, 1999 the Missouri Board of Registration for the Healing Arts issued its Findings of Fact, Conclusion of Law and Disciplinary Order addressing some of the disciplinary matters reported by Applicant.
4. Pursuant to K.S.A. 2000 Supp. 65-2836 (j), Applicant's application may be denied due to the fact that Applicant had his Missouri license reprimanded and restricted, which constitutes disciplinary action by the proper licensing authority of another state.
5. On October 20, 1997 Applicant voluntarily surrendered his Drug Enforcement Administration ("DEA") Controlled Substances Registration in lieu of a Show Cause proceeding for a period of four (4) years due to violations of the Controlled Substances Act which occurred mainly in conjunction with his handling of phentermine and fenfluramine, controlled substances. Applicant subsequently was issued a DEA Controlled Substances Registration subject to terms and conditions which will remain in effect until at least October 20, 2001.
6. Pursuant to K.S.A. 2000 Supp. 65-2836 (u), Applicant's application may be denied due to the fact that Applicant surrendered the authority to utilize controlled substances without restriction issued by a federal agency.

7. On June 30, 1999, the Missouri Bureau of Narcotics and Dangerous Drugs ("MBNDD") and Applicant entered into a Settlement Agreement resulting in a restriction on Applicant's Missouri Controlled Substances Registration of a five (5) year probationary period beginning June 30, 1999.
8. Pursuant to K.S.A. 2000 Supp. 65-2836 (u), Applicant's application may be denied due to the fact that Applicant surrendered the authority to utilize controlled substances without restriction issued by a state agency.
9. On September 14, 1995 Applicant lost hospital privileges to perform a specific procedure, laparoscopic hysterectomy.
10. Pursuant to K.S.A. 2000 Supp. 65-2836 (s) Applicant's application may be denied when sanctions or disciplinary actions have been taken against Applicant by a peer review committee or health care facility for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action in this state.
11. The violations of the Healing Arts Act committed by Applicant are considered carefully in deciding whether to grant Applicant's application. Based on that consideration, the Board takes note of the limitations placed on Applicant by the Missouri Board and likewise grants Applicant's application with the same limitations as placed by the Missouri Board. These include the following:
 - a. Applicant is granted a reinstatement of his license subject to limitations.
 - b. Applicant shall not be associated with any type of weight-loss or diet business. This restriction shall remain in place indefinitely until modified or lifted by action of this Board.

- c. On the effective date of this order, Applicant's license is limited for the remainder of the "disciplinary period" that Applicant is under in Missouri, which began on November 8, 1999 and lasts five (5) years.
- d. Applicant shall comply with the Healing Arts Act, all regulations of the Board and all state and federal laws, including cooperation with any unannounced visits by a Board investigator or other representative and all requests to appear before the Board or any subcommittee thereof.
- e. Applicant shall keep the Board informed of his current home and work telephone numbers and addresses by notifying the Board in writing within 10 days of any change.
- f. Applicant shall notify all Kansas hospitals, nursing homes, out-patient centers, surgical centers, clinics, and all other facilities where Applicant will practice or obtains privileges in Kansas of Applicant's reinstated license with limitations. Notification shall be in writing and Applicant shall copy all such notification simultaneously to Disciplinary Counsel, Kansas Board of Healing Arts, 235 S. Topeka Kansas, 66603.
- g. If Applicant violates any provision of this Order he may be subjected to further disciplinary action, pursuant to the Healing Arts Act and the Kansas Administrative Procedures Act. This Order does not restrict the ability of the Board to investigate and prosecute any and all other violations of the Healing Arts Act, Board Regulations, state or federal law that are known or unknown to the Board, but are not part of this action, or

which may be committed in the future by Applicant.

- h. Upon expiration of the disciplinary period in Missouri, and upon the Missouri Board fully restoring Applicant's license to practice medicine and surgery in that state, Applicant may petition this Board for the termination of the limitation on his license. The Board shall make an independent determination on whether the limitations imposed on Applicant's license should be removed at that time, and is not bound by the actions of the Missouri Board.

IT IS THEREFORE ORDERED that the findings hereinabove made be and the same are hereby made the order of the Board.

IT IS FURTHER ORDERED that the Answer in Opposition to Application for Reinstatement of License to Practice Medicine and Surgery is dismissed with prejudice and Applicant's Application for License to Practice Medicine and Surgery is granted with limitations as set forth in paragraph 11.

PLEASE TAKE NOTICE that this is a Final Order. A Final Order is effective upon service. A party may seek judicial review of a Final Order by filing a petition under the Kansas act for judicial review and civil enforcement of agency actions, K.S.A. 77-601, *et seq.* A petition for judicial review is not timely unless filed within 30 days of the Final Order. A copy of any such petition must be served upon the Board addressed to the Executive Director, 235 S. Topeka Blvd., Topeka, Kansas 66603. Reconsideration is not a prerequisite to judicial review.

DATED this 24th day of July 2001.

KANSAS STATE BOARD OF HEALING ARTS


LAWRENCE T. BUENING, JR.
Executive Director

CERTIFICATE OF SERVICE

I, Lawrence T. Buening, Jr., Executive Director, Kansas State Board of Healing Arts, do hereby certify that on the 24th day of July, 2001, a true and correct copy of the above and foregoing Order Granting Application for Reinstatement of License to Practice Medicine and Surgery with Limitation was deposited in the United States mail, postage prepaid, first class to the following:

Michael Hans Nielson, M.D.
3619 S. Delaware
Independence, MO 64055

and a copy was hand-delivered to :

Shelly R. Wakeman, Disciplinary Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603

and the original was filed with the office of the Executive Director.


LAWRENCE T. BUENING, JR.
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