

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

FILED SEPT 4 2003 KANSAS BOARD OF HEALING ARTS

In the Matter of)
)
WAYEL ALY M. NOURELDIN, MD)
)
Kansas Postgraduate Permit No. 94-05461)
_____)

Docket No. 04-HA-14

EMERGENCY ORDER

NOW ON THIS Second Day of September 2003, comes before the Presiding Officer a motion for an emergency order. Kelli J. Benintendi, Associate Counsel, appears for Petitioner. Respondent Wayel Aly M. Noureldin, M.D., appears in person and through Patrick R. Miller, Attorney at Law.

Having the agency record before him, the Presiding Officer makes the following findings, conclusions and orders:

1. Petitioner initiated this matter by the filing of a disciplinary petition accompanied by a motion for an emergency order and a request for an *ex parte* emergency order. The *ex parte* order was issued August 28, 2003. The agency record discloses that this order was personally served upon Respondent on August 29, accompanied by a notice of hearing regarding this proceeding.

2. The agency record in this matter consists of all pleadings filed, including their attachments, the exhibits admitted at the hearing, and the transcript of the hearing.

3. The Board issued a postgraduate permit to Respondent on or around October 1, 2000. This was in response to an application completed by Respondent and submitted by the University of Kansas Medical Center graduate medical education program.

4. The name under which Respondent applied for the postgraduate permit was “Wayel Aly M. Noureldin”. Respondent provided a social security number, and also provided personal identifying information required in the application form. He responded to specific questions regarding past conduct. When answering a question about prior disciplinary action against any license, Respondent indicated no such prior action. In the space provided in the application for identifying other states in which he had practiced, Respondent identified that he had a permit from the State of New York, but did not identify any other states or practice locations.

5. Respondent did not disclose to the Board that he had previously been issued a limited license by the State of Massachusetts that allowed him to provide professional services as an internal medicine resident. He also did not disclose to the Board that this limited license had been revoked by an order dated June 28, 1995. The factual grounds for the licensure revocation include sexual misconduct with a patient, occurring in December 1993. Respondent does not dispute that he is the person identified in the Massachusetts order. The Presiding Officer concludes that the findings in that order must be deemed conclusive, and may not be retried before this Board.

6. Respondent did not disclose to the University of Kansas that he had previously been licensed in Massachusetts, or that the license had been revoked. In his application for admission to the residency program, Respondent stated that between 1988 and 2000, he had been an attending physician at the Fini Hospital in Cairo, Egypt, and did not indicate that he had

worked at the Salem Hospital emergency room in Massachusetts as part of his rotation in internal medicine in December 1993.

7. In his application for admission to the residency program, Respondent used a social security number that is different from the one he previously used in Massachusetts, and that is different from the one provided on the application for a Kansas postgraduate permit.

8. The Presiding Officer finds that Respondent purposefully misrepresented material facts when applying to the University of Kansas graduate medical program and when applying to the Board for a postgraduate permit. This misrepresentation allowed Respondent's admission to the residency program, and to the granting of a postgraduate permit. The Presiding Officer finds that Respondent would likely not have been admitted to the residency program, and he would likely not have been granted a postgraduate permit had the prior disciplinary action been disclosed.

9. Respondent does not dispute testimony that the Health and Human Services Department has excluded him from Medicare reimbursement as a result of the Massachusetts disciplinary action. The University of Kansas was not able to discover this exclusion because Respondent used a different name and social security number in his application for admission to the graduate medical program.

10. The Presiding Officer concludes that Respondent has violated the healing arts act, specifically at K.S.A. 65-2836(a) and (j) and K.S.A. 65-2837(b)(12).

11. The Presiding Officer concludes that, as provided by K.S.A. 65-2838(c) and K.S.A. 77-536, the Board may issue an emergency order to suspend a license when necessary to protect the public from an immediate threat.

12. The Presiding Officer finds that there is an immediate threat to the public health, safety and welfare. As a policy matter, it is essential that the Board, medical care facilities and educational facilities be provided accurate information regarding the identities of individuals who provided health care to patients. The public is put in jeopardy when a practitioner having a record of sexual misconduct with patients is able to interact with patients under a different identity. This threatened public injury also includes financial loss to the University resulting from care provided by Respondent when he was excluded from Medicare.

IT IS, THEREFORE, ORDERED that the emergency suspension imposed by the *ex parte* order is affirmed. The postgraduate training permit of Respondent is suspended pending the conclusion of the formal hearing.

PLEASE TAKE NOTICE that this is an emergency order. An emergency order is effective when issued. Notice of an emergency order to the party who is required to comply with the order constitutes service for the purpose of the act for judicial review of agency actions. A petition for judicial review is not timely unless filed within 30 days following service of an agency 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 4th Day of September 2003.

Kansas State Board of Healing Arts

Roger Warren, M.D.
Presiding Officer

Certificate of Service

I certify that a true copy of the foregoing order was served this ____ day of September 2003 by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Wayel Aly M. Noureldin, M.D.
1846 South 31st Street
Kansas City, Kansas 66106

Patrick R. Miller
Attorney at Law
10100 West 87th Street, Ste. 202
Overland Park, KS 66212

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

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

Sheryl Snyder