BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

APR 13 1998

In the Matter of Omprakash B. Pillai, M.D. Application for Licensure in Medicine and Surgery	))))	Case No. 98-00061

INITIAL ORDER BY AGREEMENT

NOW ON THIS 7th day of February, 1998, comes before the Presiding Officer appointed by the Board of Healing Arts (hereinafter "Board") the application of Omprakash B. Pillai, M.D. (hereinafter "Applicant") for licensure in medicine and surgery. The Board appears through General Counsel, Mark W. Stafford. Applicant appears in person and through counsel Eric Carter of the law firm Turner & Boisseau, Chtd.

Now having the agency record before it, and hearing the statements and arguments of the parties, and the evidence presented, the Presiding Officer finds and concludes as follows:

PROCEDURAL HISTORY

1. Applicant filed an application for licensure to practice medicine and surgery in the State of Kansas.

2. On October 3, 1997, General Counsel for the Board filed a Notice of Conference Hearing, which includes grounds for denial of Applicant's application.

3. Applicant appeared in person and without counsel at the Conference Hearing before the Board on October 18, 1997.

4. On October 24, 1997, the Board issued a Final Order Following Conference

Hearing, which denied Applicant's application for licensure to practice medicine and surgery in the State of Kansas.

5. On November 10, 1997, Applicant filed a Petition for Reconsideration of the Final Order Following Conference Hearing.

6. On December 6, 1997, Applicant appeared before the Board in person and through counsel Eric Carter in support of his Petition for Reconsideration.

7. On December 6, 1997, the Board issued an Order granting Applicant's Petition for Reconsideration, which set the matter for further proceedings and which appointed Dr. Hai Truong, D.O., Dr. Jana D. Jones, M.D., and Emily Taylor to preside over the matter and issue an Initial Order.

8. On January 7, 1998, Applicant and his legal counsel, Eric Carter, appeared before the Presiding Officer to discuss his application. Mark W. Stafford was also present as an attorney for the Board. The meeting held on January 7, 1998 was not a formal hearing, but a discussion to determine whether Applicant and the Presiding Officer could reach an agreement to grant Applicant's application for a license to practice medicine and surgery in the State of Kansas. This Initial Order By Agreement reflects the agreement reached between Applicant and the Presiding Officer concerning granting Applicant's application for a license, with certain limitations imposed on the license.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. The Final Order Following Conference Hearing contains findings of facts and conclusions of law. The findings of fact are based upon the Stipulations that were signed by

Applicant and General Counsel for the Board.

10. The Presiding Officer adopts and incorporates herein the findings of fact and conclusions of law set forth in the Final Order Following Conference Hearing, with the exception of the finding that Applicant's application for licensure to practice medicine and surgery in the State of Kansas is denied.

11. The Presiding Officer rejects Applicant's argument that in issuing the Final Order Following Conference Hearing, the Board acted arbitrarily and without due regard to substantial evidence presented in support of the application.

12. The findings of fact and conclusions of law contained in the Final Order Following Conference Hearing include sufficient grounds for denial of Applicant's application. Since the facts include grounds for denial of the application, the Board's decision to deny Applicant's application was an exercise of the Board's discretion.

13. However, at the meeting before the Presiding Officer on January 7, 1998, Applicant presented additional evidence in support of his application.

14. Applicant presented evidence that the misconduct that occurred in the past was related to his use of alcohol. Applicant stated that he was terminated from the residency program at the Medical Center of Central Massachusetts due to his arrest for a DWI, failing to appear in court for the DWI, demonstrating inappropriate behavior towards nurses on duty, and delaying response to patient care, all as a result of his alcohol use.

15. Applicant stated that he was given the option of continuing with the residency program if he enrolled in an alcohol treatment program. Applicant acknowledges that he failed

to enroll in such a program.

16. Applicant states that he currently does not abuse alcohol, but that he does not completely abstain from the use of alcohol.

17. On August 12, 1996, Applicant was granted a license to practice medicine in the State of Connecticut with certain limitations.

18. Applicant's Connecticut license is placed on probation for three years, and Applicant must comply with the following provisions:

(a) **(Confidential)**

(b) Applicant's practice must be supervised at all times and the supervisor must submit quarterly reports regarding whether Applicant is practicing medicine with reasonable skill and safety;

(c) Applicant's supervisor must conduct a random review each month of twenty percent, or at least fifteen of Applicant's patient records, whichever is greater. The supervisor must submit monthly reports regarding the reviews; and

(d) Applicant shall not engage in the solo practice of medicine.

19. To date, Applicant has complied with the conditions of his Connecticut license.

20. Applicant has been practicing medicine at the Veteran's Administration ("V.A.") hospital in Wichita, Kansas since July 1997. Applicant has been supervised by Kent B. Murray, M.D., acting Chief of Staff of the V.A. hospital.

21. While the facts demonstrate that grounds exist for the denial of Applicant's

application, the additional facts presented by Applicant also demonstrate that he has made an effort to resolve the issues that purportedly caused his past misconduct.

22. The Board's statutory purpose of protecting the public from unprofessional and dishonest conduct may be achieved by granting Applicant's application for licensure in the State of Kansas if certain limitations are imposed upon Applicant's license.

IT IS THEREFORE ORDERED THAT Applicant's application for a license to practice medicine and surgery in the State of Kansas is hereby granted.

IT IS FURTHER ORDERED THAT Applicant's license to practice medicine and surgery in the State of Kansas is placed under the following limitations:

(1) Applicant must attend a seminar concerning proper boundaries with women. Applicant must attend the 90-minute seminar given by the Kansas Human Rights Commission. Applicant must attend this seminar and submit verification of his attendance within three months of the date of this Order. If Applicant is unable to schedule an appointment with the Kansas Human Rights Commission, Applicant must attend a similar seminar approved by the Presiding Officer within three months of the date of this Order. As of the date of this Order, Applicant has complied with this provision;

(2) Applicant must fully comply with the Prelicensure Consent Order issued by the State of Connecticut Department of Public Health Bureau of Regulatory Services. Applicant shall ensure that he submits to the Disciplinary Counsel of the Kansas Board copies of all reports he is required to submit to the State of Connecticut;

(3) **(Confidential)**

(Confidential)

(4) Applicant is prohibited from engaging in a solo practice until such time as the Board deems appropriate. Applicant is allowed to provide consultation services in his subspecialty, infectious diseases, including taking hospital call for a group practice. In addition, Applicant may practice emergency and urgent care medicine. Applicant may petition the Board to remove this limitation after at least one year of the effective date of this Order;

(5) **(Confidential)**

(Confidential)

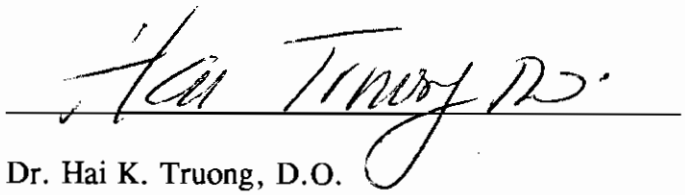
(Confidential)

(6) In the event that Applicant fails to comply with any of the above limitations, Applicant's license may be subject to discipline pursuant to K.S.A. 65-2836 et seq.

ENTERED THIS 13th **Day of** ~~March~~ April **, 1998.**

PLEASE TAKE NOTICE that this Initial Order will become a Final Order unless a petition for review as set forth in K.S.A. 77-527, is filed with the Kansas State Board of Healing Arts within fifteen (15) days after receipt of service of this Initial Order.

KANSAS STATE BOARD OF HEALING ARTS



Dr. Hai K. Truong, D.O.
Presiding Officer

Dr. Jana D. Jones, M.D.
Presiding Officer

Emily Taylor
Presiding Officer

Approved as to form by:

Omprakash 03/24/98.

Omprakash B. Pillai, M.D.
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Wichita, Kansas 67210

~~Eric Carter~~ Brian C. Wright
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Mark W. Stafford
General Counsel
Kansas State Board of Healing Arts
235 South Topeka Boulevard
Topeka, Kansas 66603-3068

CERTIFICATE OF SERVICE

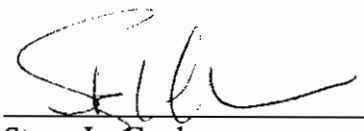
I, Stacy L. Cook, Associate Counsel, Kansas State Board of Healing Arts, hereby certify that I served said INITIAL ORDER BY AGREEMENT by the United States Postal Service this 13th day of April, 1998 to:

Omprakash B. Pillai, M.D.
8914 East Hurst
Wichita, Kansas 67210

Brian C. Wright
Turner & Boisseau, Chtd.
3900 Broadway
Great Bend, Kansas 67530
Attorneys for Applicant

and a copy was hand-delivered to:

Mark W. Stafford
General Counsel
Kansas State Board of Healing Arts
235 South Topeka Boulevard
Topeka, Kansas 66603-3068



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