

BEFORE THE KANSAS STATE BOARD OF HEALING ARTS

In the Matter of
DAVID A. SAPPERSTEIN, D.P.M.
Kansas License Number P-174

ORDER OF EMERGENCY LIMITATION OF LICENSE

NOW, on this 10th day of December, 1988, the above entitled matter comes before the KANSAS STATE BOARD OF HEALING ARTS, (hereinafter referred to as "Board") at a regular meeting of the Board and pursuant to emergency adjudicative proceedings conducted in accordance with K.S.A. 1987 Supp. 65-2006(d), as amended by L. 1988, Chapter 246, and K.S.A. 1987 Supp. 77-536.

After reviewing the investigative files in a closed meeting of the Board as authorized by K.S.A. 1987 Supp. 75-4318 and 1987 Supp. 65-2898a, and being otherwise duly advised in the premises, the Board makes the following findings of fact, conclusions of law and policy reason statements:

I. FINDINGS OF FACT

1. That DAVID A. SAPPERSTEIN, D.P.M. (hereinafter referred to as "Licensee") is the holder of license number P-174, issued to him by the Board to practice podiatry in the State of Kansas, originally issued June 25, 1980 and most recently renewed on June 11, 1988 for the period July 1, 1988 through June 30, 1989.
2. That the Board has received a number of complaints from individuals alleging matters which may constitute violations of the Podiatry Act (K.S.A. 65-2001 et seq. and amendments thereto).
3. That the Board has received copies of petitions naming Licensee as the defendant in actions for personal injury and allegedly arising out of the rendering of or the failure to render professional services by Licensee.
4. That the Board has caused an investigation to be conducted into a number of the complaints and court cases to determine if the conduct by and treatment of Licensee involved professional incompetency, unprofessional conduct or any other matter which may be grounds for disciplinary action pursuant to K.S.A. 65-2006 and amendments thereto.
5. That the Board, at its meetings October 15, 1988 and

December 9-10, 1988, reviewed the investigative material compiled by Board staff, which material included patient records relating to numerous individuals who have had treatment provided to them by Licensee.

6. That pursuant to K.S.A. 65-2006, as amended, "professional incompetency" has the meaning ascribed thereto by K.S.A. 65-2837 and amendments thereto.

7. That pursuant to K.S.A. 65-2006 and amendments thereto, "unprofessional conduct" has the meaning ascribed thereto by K.S.A. 65-2837 and amendments thereto.

8. That during its meeting on October 15, 1988, at which Licensee was present, the Board directed Board staff to enter into negotiations with Licensee and Licensee's counsel in an attempt to determine if an amicable resolution of this matter could be reached.

9. That the proposal for a negotiated resolution of this matter which has been submitted to the Board is unacceptable to the Board for the reason that it does not adequately protect the health, safety and welfare of the citizens of the State of Kansas and no stipulation based upon the negotiation proposal should be entered into or approved by the Board.

II. CONCLUSIONS OF LAW AND POLICY REASONS

10. That from the information reviewed by the Board, there is reason to believe that Licensee may be professionally incompetent as a result of repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the Board.

11. That there is reason to believe that Licensee may have engaged in unprofessional conduct in the following respects:

A. Advertising professional superiority or the performance of professional services in a superior manner.

B. Conduct likely to deceive, defraud or harm the public.

C. Making a false or misleading statement regarding the Licensee's skill or the efficacy or value of the treatment or remedy prescribed by the Licensee or at the Licensee's direction in the treatment of foot ailments.

D. Performing unnecessary tests, examinations or services which have no legitimate medical or podiatric purpose.

E. Repeated failure to practice podiatry with that level of care, skill and treatment which is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances.

12. That having engaged in unprofessional conduct or being professionally incompetent constitutes grounds for which the Board may revoke, suspend or limit Licensee's license to practice podiatry pursuant to K.S.A. 65-2006 and amendments thereto.

13. That there is reason to believe that the continuation by Licensee of surgical procedures which involve the bone constitutes an imminent and immediate danger to the public health, safety or welfare of the citizens of the State of Kansas.

14. That attempts to resolve this matter without use of emergency adjudicative proceedings have been unsuccessful and Licensee still holds a current and unrestricted license to practice podiatry in the State of Kansas.

15. That the necessary action which must be taken by the Board to prevent or avoid the continuation of any imminent or immediate danger to the public health, safety or welfare of the citizens of the State of Kansas is to limit the ability of Licensee to perform surgical procedures which in any way involve bone.

NOW, THEREFORE, IT IS BY THE BOARD ORDERED AS FOLLOWS:

(1) That the findings of fact, conclusions of law and policy reasons hereinabove made and set forth be and the same are hereby made the order of the Board.

(2) That the Licensee's license to practice podiatry in the State of Kansas should be limited to prohibit

Licensee from performing any surgical procedures which involve or affect bone.

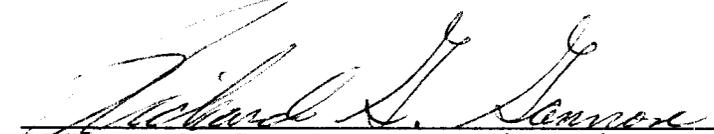
(3) That the limitation of Licensee's ability to perform surgical procedures involving bone shall remain in effect until further order of the Board.

(4) That this order shall take effect immediately.

(5) That a copy of this order shall be served upon Licensee and his attorney, Harold S. Youngentob.

IT IS SO ORDERED.

DATED this 15th day of December, 1988.



RICHARD G. GANNON, Executive Director
KANSAS STATE BOARD OF HEALING ARTS

December 15, 1988

Date

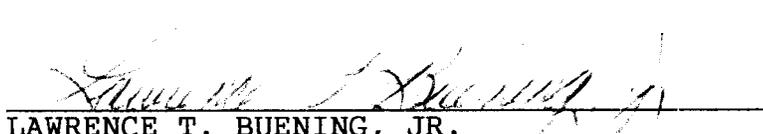
Prepared by:

LAWRENCE T. BUENING, JR., General Counsel
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Topeka, Kansas 66612

CERTIFICATE OF SERVICE

I, Lawrence T. Buening, Jr., General Counsel for the Board of Healing Arts, hereby certify that I served the above Order of Emergency Limitation of License by depositing a true and correct copy thereof in the United States mail, postage prepaid, to David A. Sapperstein, D.P.M., 6801 W. 107th Street, Overland Park, Kansas and Harold S. Youngentob, Attorney at Law, GOODELL, STRATTON, EDMONDS & PALMER, 125 S.E. 8th Street, Topeka, Kansas 66603.

Dated this 15th day of December, 1988.



LAWRENCE T. BUENING, JR.

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