

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

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KS State Board of Healing Arts

In the Matter of)
Anwarul Bashar Siddiqui, M.D.)
)
Kansas License No. 04-29605) KSBHA Docket No. 13-HA00089
_____)

ORDER MODIFYING EMERGENCY LIMITATION ON LICENSE Confidential
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NOW, on this 29th day of May, 2013, this matter comes on for hearing before Presiding Officer John F. Settich, Ph.D. pursuant to K.S.A. 65-2838(c) of the Kansas Healing Arts Act and in accordance with K.S.A. 77-536 of the Kansas Administrative Procedure Act. Petitioner appears through Seth K. Brackman, Associate Litigation Counsel. Licensee appears in person and through counsel, Carol Ruth Bonebrake and Mark W. Stafford of Holbrook & Osborn, P.A.

Having heard the testimony of the witnesses and considered the exhibits admitted in the hearing, the Presiding Officer makes the following findings, conclusions and orders:

I. Procedural History

1. On or about May 8, 2013, Petitioner filed a Petition seeking discipline against Licensee’s license to practice medicine and surgery in Kansas. On the same date, Petitioner also filed a Motion for *Ex Parte* Emergency Order of Suspension and for Emergency Proceedings and a Motion for an Order Compelling an Evaluation Pursuant to K.S.A. 65-2836(i).

2. The Petition and the Motion for *Ex Parte* Emergency Order of Suspension and for Emergency Proceedings generally alleged that Licensee had the inability to safely practice, Confidential

Confidential and that Licensee had engaged in inappropriate sexual behavior and actions toward one female patient and similarly violated professional boundaries to a lesser degree with

a another female patient. The Motion for *Ex Parte* Emergency Order of Suspension and for Emergency Proceedings further alleged that Licensee's continuation in practice during the pendency of proceedings on the Petition constituted an imminent threat to patient safety and requested a suspension of licensure pursuant to K.S.A. 65-2838(c).

3. The Motion for *Ex Parte* Emergency Order of Suspension and for Emergency Proceedings was supported by an affidavit from a Board investigator detailing his observations of and conversations with Licensee and Confidential

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4. On or about May 8, 2013, Petitioner also submitted a proposed *Ex Parte* Emergency Order of Suspension for consideration by the Presiding Officer.

5. On or about May 10, 2013, Licensee's counsel filed a Response in Opposition to Petitioner's Motion for *Ex Parte* Emergency Order of Suspension and for Emergency Proceedings. The Response in Opposition set forth Licensee's objection to the emergency suspension based on arguments that there was no emergency or imminent danger due to the length of time which has passed since Licensee's alleged behavior with the female patients. Licensee further argued that a suspension exceeded the scope allowed by K.S.A. 77-536(b), which, in part, requires an agency to take "only such action as is necessary: (1) to prevent or avoid the immediate danger to the public health, safety or welfare . . ."

6. After consideration of all the pleadings filed, on May 13, 2013, the Presiding Officer issued the *Ex Parte* Emergency Order of Suspension which had been proposed by Petitioner.

7. On or about May 15, 2013, Licensee filed a Petition to Stay Agency Action which requested a stay of the emergency suspension pending judicial review which restated Licensee's arguments against the emergency suspension. The Petition for Stay also requested disqualification of the Presiding Officer based on an allegation that inappropriate *ex parte* communications occurred between counsel for Petitioner and the Presiding Officer. Based on a clarification about the timing of when the pleadings and the proposed *Ex Parte* Emergency Order of Suspension were presented to the Presiding Officer, counsel for Licensee has since withdrawn the allegations of inappropriate *ex parte* communications and the request for disqualification of the Presiding Officer.

8. May 17, 2013, the Presiding Officer issued an Order Vacating *Ex Parte* Emergency Suspension and Imposing Emergency Limitations on License which vacated the prior suspension and restricted Licensee's license to prohibit him from performing any evaluation and treatment of female patients.

9. On May 21 and 29, 2013, a hearing was held before the Presiding Officer to consider the presentation of additional evidence in order to determine if the limitation remains emergently warranted and hear the parties' arguments on Petitioner's Motion for an Order Compelling an Evaluation Pursuant to K.S.A. 65-2836(i) and Licensee's Response in Opposition thereto.

II. Findings and Conclusions

10. Licensee is a Neurologist in Salina, Kansas and practices at Salina Neurology

Clinic, which Licensee owns. Licensee has three employees, including a registered nurse.

11. Licensee's medical records reflect that Licensee treated Patient 1, a female born in 1967, from June 8, 2010 to May 4, 2012. Patient 1's last office visit was on April 25, 2012.

12. In January of 2013, Karen S. Aldridge, O.D. reported to the Board that Licensee had engaged in inappropriate sexual conversation and had inappropriately touched Patient 1 in a sexual manner. Dr. Aldridge testified at the hearing that Patient 1 initially disclosed information about Licensee's acts toward her to Dr. Aldridge's staff, but that Dr. Aldridge had a subsequent in-person conversation with Patient 1 in which Patient 1 shared the same information. The exact dates of the alleged acts by Licensee and of Patient 1's disclosures to Dr. Aldridge and her staff were not ascertainable from Dr. Aldridge's testimony and the documentary evidence presented. However, the Presiding Officer finds Dr. Aldridge's testimony to be credible and persuasive regarding her communication with Patient 1 about the allegations and notes that Dr. Aldridge's medical record for Patient 1 contained contemporaneous entries supporting her testimony.

13. Since at least some time prior to April 1, 2013, Patient 1 has been in a coma, and as such, was unavailable for an investigative interview and unable to testify at the hearing. Based on the evidence presented at the hearing, the Presiding Officer finds that Patient 1 did report allegations of inappropriate sexual conversation and touching by Licensee to Dr. Aldridge.

14. On March 28, 2013, Board Investigator Steve French interviewed Licensee at Salina Neurology Clinic and Confidential

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The purpose of the interview was to question Licensee about the alleged inappropriate acts and conduct with Patient 1. During the interview, Licensee denied that he ever engaged in inappropriate acts or conduct with Patient 1.

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17. The Presiding Officer finds that the factual allegations regarding Patient 1 are serious and contain similarities with the allegations made regarding with Patient 2 which are concerning. However, based on the evidence presented at this time, there is no finding that Licensee committed the alleged acts toward Patient 1.

18. During the March 28, 2013 interview with Investigator French and Confidential Licensee admitted he told another female patient, Patient 2, about his personal sex life.

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20. During his testimony at the hearing, Licensee described Patient 2 as having a personal relationship with his family outside of their physician-patient relationship. Licensee admitted that he had talked with Patient 2 about his personal sex life.

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22. Due to the sexual content of Licensee's admitted conversation with Patient 2, the Presiding Officer concludes that Licensee's conduct with Patient 2 constitutes the "[c]ommission of any act of sexual abuse, misconduct or other improper sexual contact, which exploits the licensee-patient relationship, with a patient . . ." as set forth in K.S.A. 65-2837(b)(16).

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24. At the hearing, there was no evidence presented which indicated Licensee had practiced below the standard of care in his evaluation and treatment of patients or that he had engaged in any professional boundary violation with a male patient. Confidential

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25. Based on the totality of the evidence presented, including Licensee's admitted conduct with Patient 2 and Confidential the Presiding Officer concludes there is cause to believe that Licensee Confidential which impairs his ability to practice with reasonable skill and safety with patients in violation of K.S.A. 65-2836(i).

26. At the hearing, Licensee presented evidence demonstrating his strict compliance with the previous emergency suspension of his license and the testimony of his staff regarding their willingness to serve as a chaperone when Licensee sees female patients if he should be allowed to do so. Licensee requested a modification of the emergency limitation on his license to allow him to evaluate and treat female patients with a chaperone present. Confidential

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29. The Presiding Officer concludes that there is cause to believe that grounds exist under K.S.A. 65-2836 for disciplinary action against Licensee's license and that Licensee's continuation in practice would constitute an imminent danger to the public health and safety.

30. The Presiding Officer concludes that a limitation on Licensee's license prohibiting Licensee from evaluating and treating female patients unless a registered nurse chaperone is physically present is sufficient to address the imminent danger to the public health and safety until the resolution of the underlying Petition.

III. Order

IT IS THEREFORE ORDERED that the emergency LIMITATION of Licensee's license is hereby MODIFIED to prohibit Licensee from evaluating or treating female patients unless a Kansas licensed registered nurse chaperone is physically present with Licensee and the female patient as follows:

a. Licensee shall have a chaperone who is a Kansas licensed registered nurse physically present in the room throughout any personal contact with a female patient in his professional office or in any other clinical setting. Such chaperone must remain present and within direct eyesight and within clear hearing distance of Licensee and the patient throughout the entire period of time that Licensee is in personal contact with any female patient.

b. Licensee shall identify such chaperone(s) to the Board prior to Licensee evaluating and treating female patients. Such identification shall include the chaperone's full name, address, Kansas license number, and a signed and sworn statement from the chaperone attesting that the chaperone will immediately notify the Board's Compliance Coordinator of any known or suspected violation of Licensee's LIMITATION. The chaperone identification shall be submitted to: Compliance Coordinator, Kansas Board of Healing Arts, 800 SW Jackson Street, Lower Level- Suite A, Topeka, Kansas 66612.

c. Licensee shall ensure that the chaperone(s) creates and maintains a daily log identifying all patients seen by Licensee each day, and certifying their presence for all female patients seen by Licensee each day. Such daily logs must be submitted to the Board on a monthly basis and must be received on or before the 15th day of the following month. Licensee is responsible for ensuring that the daily chaperone logs are submitted on a timely basis to the Board.

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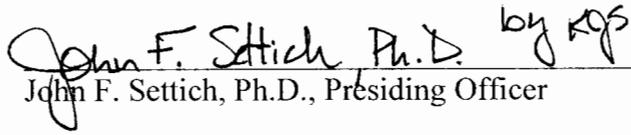
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IT IS SO ORDERED this 31st day of May, 2013.

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Anwarul Bashar Siddiqui, M.D.
KSBHA Docket No. 13-HA00089

KANSAS STATE BOARD OF HEALING ARTS


John F. Settich, Ph.D., Presiding Officer

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this 31st day of May, 2013, a true and correct copy of the above and foregoing **ORDER MODIFYING EMERGENCY LIMITATION ON LICENSE** Confidential was served by depositing the same in the United States Mail, first-class postage prepaid, and addressed to the following:

Anwarul Bashar Siddiqui, M.D.
807 E Prescott Avenue
Salina, KS 67401

Carol Ruth Bonebrake
Holbrook & Osborn, P.A.
107 SW 6th Avenue, Suite 210
Topeka, KS 66603

And a copy was hand-delivered to:

Seth Brackman, Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level – Suite A
Topeka, KS 66612

Katy Lenahan, Licensing Administrator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level – Suite A
Topeka, KS 66612

Compliance Coordinator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level – Suite A
Topeka, KS 66612

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



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