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KS State Board of Healing Arts

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

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

KSBHA Docket No. 13-HA00089

**ORDER VACATING EX PARTE EMERGENCY SUSPENSION AND IMPOSING
EMERGENCY LIMITATION ON LICENSE**

NOW, on this 17th day of May, 2013, this matter comes 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. Wherefore, the Presiding Officer *sua sponte* makes the following findings, conclusions and order:

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 due to **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

Confidential

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. The Presiding Officer concludes that the allegations regarding Licensee's behavior with two female patients and Confidential supported by the exhibits offered by Petitioner, evidence an imminent threat to the safety of female patients warranting emergency action by the agency. Nevertheless, upon further consideration of the arguments raised regarding the appropriateness of the *ex parte* emergency suspension in Licensee's previously filed Response in Opposition to Petitioner's Motion for Ex Parte Emergency Order of Suspension and for Emergency Proceedings and Licensee's Petition for Stay, the Presiding Officer concludes that based on the evidence presently available, a limitation prohibiting Licensee from evaluating and treating female patients will suffice to address the immediate danger posed by Licensee's continuation in practice.

9. In making such determination, the Presiding Officer also considers that Licensee's alleged misconduct has only been with female patients and that a basis Confidential Confidential has not yet been put into evidence.

10. The Presiding Officer concludes that the *Ex Parte* Emergency Order of Suspension should be vacated and in its place, an emergency limitation should be imposed on Licensee's license that prohibits Licensee from performing any evaluation and treatment of female patients.

11. The Presiding Officer will consider the presentation of additional evidence at the hearing scheduled for Tuesday, May 21, 2013, in order to determine if the limitation remains emergently warranted or whether a lesser or more severe action is necessary.

12. The Motion for **Confidential** Pursuant to K.S.A. 65-2836(i) and Licensee's Response in Opposition thereto will also be heard at the hearing scheduled for Tuesday, May 21, 2013.

IT IS THEREFORE ORDERED that the emergency suspension of Licensee's license is VACATED.

IT IS FURTHER ORDERED that Licensee's license is hereby emergently LIMITED to prohibit Licensee from performing any evaluation and treatment of female patients.

IT IS SO ORDERED this 17th day of May, 2013.

KANSAS STATE BOARD OF HEALING ARTS


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

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this 17th day of May, 2013, a true and correct copy of the above and foregoing **ORDER VACATING EX PARTE EMERGENCY SUSPENSION AND IMPOSING EMERGENCY LIMITATION ON LICENSE** 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
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
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And the original was filed with the office of the Executive Director.


