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KANSAS STATE BOARD OF
HEALING ARTS

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

In the Matter of)
)
MICHAEL REED SIMMONS, M.D.)
Kansas License No. 04-24193)
_____)

Docket No. 02-HA-55

FINAL ORDER

NOW ON THIS Twelfth Day of October 2002, comes before the Board Respondent's Request for Hearing and Modification of Consent Order. Tonna K. Farrar, Attorney at Law, appears for Respondent. Stacy L. Cook, Litigation Counsel, appears for Petitioner.

After hearing the statements of counsel, the Board finds, concludes and orders as follows:

1. The Board initiated a disciplinary proceeding on April 4, 2002 with a three-count petition alleging sexual misconduct related to Respondent's practice of the healing arts. The material facts were not disputed. Respondent signed a consent order that was filed June 4, 2002. In that consent order, Respondent acknowledged the three sexual relationships, but maintained that one of the relationships involving a nurse-employee occurred after the physician-patient relationship had terminated. The consent order suspended Respondent for 30 days, censured Respondent, imposed a fine, assessed costs, required completion of a course on professional boundaries, limited Respondent's license by requiring that he have a chaperone when examining female patients, and required that he maintain a log of all patient encounters involving female patients.

2. Respondent alleges that a board investigator acted inappropriately by having a personal social relationship with a material witness as a result of the investigator's involvement

with the case. Based upon that allegation, Respondent requests a hearing and an opportunity to review the investigative file.

3. The Board does not find that there is reason to believe the investigator engaged in improper conduct in investigating the complaint that resulted in the consent order. The Board further finds that even if the allegations were true, that fact would not have affected the outcome of the proceeding.

4. The Board concludes that, as provided by K.S.A. 65-2839a, its investigative files are confidential, but that disclosure of those records may be made to a person who is the subject of the information contained in those records, as stated in K.S.A. 65-2898a(a)(3). The Board further concludes that these statutes make disclosure discretionary, not mandatory. Disclosure must be made when the due process rights of a party to an agency proceeding require.

5. The Board finds that due process does not require disclosure of the investigative file in this case because there is no factual dispute as to the basis for the Board's action. For the same reason, the Board finds that the its exercise of discretion is not abused by denying Respondent's request.

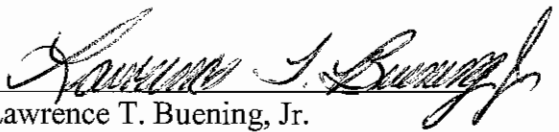
6. Respondent also asks that the consent order be modified to remove the limitation regarding a chaperone during meetings with female patients. Granting or denying that request lies within the sound discretion of the Board. There being no material change in circumstances since the time the consent order was signed by Respondent, the request is denied.

IT IS, THEREFORE, ORDERED that Respondent's Request for Hearing and Modification of Consent Order is denied.

PLEASE TAKE NOTICE that this is a Final Order. A Final Order is effective upon service. A party to an agency proceeding may seek judicial review of a Final Order by filing a petition in the District Court as authorized by K.S.A. 77-610, et seq. Reconsideration of the Final Order is not a prerequisite to judicial review. A petition for judicial review is not timely unless filed within 30 days following service of the Final 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 1st Day of November 2002.

Kansas State Board of Healing Arts


Lawrence T. Buening, Jr.
Executive Director

Certificate of Service

I certify that the foregoing Final Order was served this 15th day of November 2002 by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Tonna K. Farrar
Patrick G. Reavey
Livestock Exchange Building
1600 Genessee, Suite 303
Kansas City, MO 64102

and a copy was hand-delivered to:

Stacy L. Cook
Litigation Counsel
235 S. Topeka Blvd.
Topeka, Kansas 66603

