

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED

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KANSAS STATE BOARD OF
HEALING ARTS

In the Matter of)
)
ROBERT W. STAFFORD, M.D.)
Kansas License No. 04-15788)
_____)

Case No.'s 97-00009
97-00185

FINAL ORDER

NOW ON THIS Eighteenth Day of October, 1997, comes before the State Board of Healing Arts (hereinafter, "Board") a Petition to Revoke, Suspend, or Otherwise Limit Licensure of Dr. Robert W. Stafford, M.D., Respondent. The Board appears through Kevin K. LaChance, Disciplinary Counsel. Respondent appears *pro se*.

Exhibits 1-7, offered by Disciplinary Counsel, are admitted. Exhibits 5, 6, and 7 are privileged as provided by K.S.A. 1996 Supp. 65-4915, as amended by L. 1997 Ch. 149, § 1. The Board issues a protective order prohibiting further disclosure of those privileged documents, except that the parties are not restricted from using the documents in this proceeding.

There appears to be a dispute of material fact regarding the degree to which Respondent has cooperated with the investigative efforts of the Board. The matter is converted to a formal proceeding, and the hearing follows. After hearing the arguments, and having the agency record before it, the Board makes the following findings of fact, conclusions of law and order:

1. Respondent is licensed by the Board to engage in the practice of medicine and surgery, a branch of the healing arts.

2. Respondent has frequently been delinquent in maintaining patient records. By his own admission, Respondent has been behind as much as thirty to sixty days in his dictation. Respondent has taken efforts to be current in his dictation, and as of the hearing date is dictating for patients seen that week. A practitioner of the healing arts is required to create and maintain adequate patient records. K.A.R. 100-24-1. The failure to keep written medical records constitutes unprofessional conduct, as defined by K.S.A. 65-2837(b)(25).

3. (confidential) Respondent has been sanctioned by two health care facilities. Respondent's privileges are not currently limited by those health care facilities. A licensee of the Board is subject to disciplinary action when sanctions have been taken by a peer review committee or health care facility for conduct which would be grounds for discipline under the healing arts act. K.S.A. 65-2836(s). In proving a violation of that section of the healing arts act, the Board must support its findings with independent testimony rather than relying upon the peer review report itself. K.S.A. 1996 Supp. 65-4915, as amended by L. 1997 Ch. 149, § 1. In this case, Respondent's own testimony sufficiently supports the finding that he was sanctioned by the health care facilities (confidential)

4. The Board alleges that Respondent has failed to furnish its investigators information legally requested, and thus has violated the healing arts act as provided at K.S.A. 65-2836(r). Exhibit 1 is a letter dated November 1, 1996 from the Board to Respondent asking for a written explanation

(confidential) Apparently no written response was provided. Exhibit 2 is a subpoena commanding Respondent to produce a letter of response as to why hospital privileges were suspended. Once again, it appears that Respondent provided no written narrative explanation as commanded by the subpoena, though it is not clear whether existing

documents responsive to the subpoena were produced.

5. The Board is granted broad investigative authority. *See* K.S.A. 65-2839a. Such authority allows the Board to access, examine and copy documents, reports and records, and to collect physical evidence. The Board may issue a subpoena to compel production of such documents or evidence. Additionally, the Board may issue subpoenas commanding testimony of witnesses. The Board construes the term “testimony” to refer to oral evidence given by a competent witness under oath or affirmation. Such testimony might be taken in the form of a deposition during the course of an investigation, subject any valid objection or claim to privilege. Though a written explanation or response to a complaint may be helpful to the Board, and may benefit the licensee, such an explanation cannot merely be subpoenaed. The Board finds that Respondent has not failed to furnish information legally requested in the course of an investigation.

IT IS, THEREFORE, ORDERED that Respondent is publicly censured for failing to

(confidential)

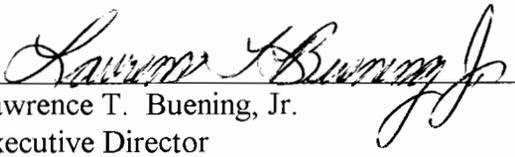
which resulted in his being sanctioned by a health care facility.

(confi

PLEASE TAKE NOTICE that this is a Final Order and which is effective upon service. A party to an agency proceeding may seek relief by requesting reconsideration by the Board. A petition for reconsideration must state its grounds and be filed within 15 days after service of the Final Order. A petition for reconsideration is not a prerequisite to seeking judicial review. A petition for judicial review must be filed with the District Court within 30 days after service of the Final Order. Any petition for reconsideration or for judicial review may be served upon the Board by sending a copy to Lawrence T. Buening, Jr., Executive Director, 235 S. Topeka Blvd., Topeka, Kansas 66603.

ENTERED THIS 4th DAY OF NOVEMBER, 1997.

KANSAS STATE BOARD OF HEALING ARTS


Lawrence T. Buening, Jr.
Executive Director

Certificate of Service

I certify that a copy of the foregoing Final Order was served this 4th day of November, 1997 by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Dr. Robert W. Stafford, M.D.
2101 Waldron
Hutchison Clinic
Hutchison, Kansas 67502

and a copy was hand delivered to the office of:

Kevin K. LaChance
Disciplinary Counsel
235 S. Topeka Blvd.
Topeka, Kansas 66603

