

FILED

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

DEC 14 1994^{MS.}

**KANSAS STATE BOARD OF
HEALING ARTS**

IN THE MATTER OF)
)
MILDRED I.J. STEVENS, M.D.)
Kansas License No. 04-09397)
)
)

Case No. 92-00197

FINAL ORDER

THIS MATTER COMES ON FOR HEARING October 15, 1994 upon request of Mildred I.J. Stevens, M.D. ("Respondent") for review of the Initial Order. Respondent appears in person pro se. The Kansas Board of Healing Arts ("Board"), as Petitioner, appears through Kevin K. LaChance, Disciplinary Counsel. Following oral arguments, the matter is continued for deliberation. As noted in the Journal Entry of Continuance, the parties were given until November 8, 1994 to provide additional evidence as discussed in oral argument.

THEREUPON, the matter was called for decision and order December 10, 1994. Respondent does not appear in person or through counsel. The Board, as Petitioner, appears through Kevin K. LaChance, Disciplinary Counsel. General Counsel advises the Board that a letter was received December 8, 1994 requesting the appointment be cancelled. Further, General Counsel advises the Board he called Respondent, and that she gave no cause for requesting cancellation. The letter is treated as a request for continuance, and for failure to show good cause, in light of the short notice for the request and the lack of prejudice to the parties, the request is denied. The Board deliberates, and upon a

motion duly made, seconded and unanimously adopted, the Board enters the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Board adopts finding of fact numbers 1 through 8 of the Initial Order.

In addition, the Board finds:

9. On or before October 15, 1994, Respondent was evaluated by Colorado Personalized Education for Physicians (CPEP). This evaluation had previously been suggested by Disciplinary Counsel, but was entered into voluntarily by Respondent.

10. A report of the evaluation done by CPEP was issued to Respondent. Respondent withdrew her release for the Board to receive the report, and the report is solely within her control. The report has not been forwarded to nor reviewed by the Board. It is inferred that the CPEP report is adverse to Respondent.

CONCLUSIONS OF LAW

1. The Board adopts conclusions of law numbers 1 through 5 of the Initial Order.

In addition, the Board concludes:

6. When a party fails to offer evidence within her power to produce, and which is beyond the reach or control of the other party, an inference arises that the evidence which could have been

produced would be adverse to the party.

7. The failure to produce evidence of competence, and the negative inference arising therefrom, suggests that the indefinite suspension recommended by the presiding officer in the Initial Order, conditioned on proving competence, is no longer the appropriate remedy.

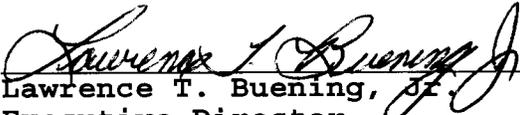
IT IS, THEREFORE ORDERED, THAT license number 4-09397 issued of Mildred I.J. Stevens, M.D., is hereby revoked.

IT IS FURTHER ORDERED THAT the emergency suspension is continued and remains effective until this order becomes final and unreviewable.

IT IS FURTHER ORDERED THAT since the finding that Respondent violated the suspension order likewise constitutes additional grounds for the order revoking her license, and the monetary penalty is no longer necessary to regulate Respondent's future professional conduct, that portion of the Initial Order imposing the monetary penalty is hereby vacated.

IT IS SO ORDERED.

Entered this 14th day of December, 1994.


Lawrence T. Buening, Jr.
Executive Director

NOTICE REGARDING RELIEF

This is a Final Order. It is effective upon service. A party may seek relief within 30 days after service by filing a petition for judicial review in the district court. Any petition for reconsideration may be filed with the Board within 15 days after service stating the grounds upon which relief is requested.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing FINAL ORDER was served this 16th day of December, 1994, was deposited in the United States Mail, first-class postage prepaid, and addressed to:

Mildred I. J. Stevens, M.D.
202 W. 4th Avenue
Garnett, Kansas 66032

and a copy was hand-delivered to:

Kevin K. LaChance
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603


Lawrence T. Buening, Jr.