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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	)	
	)	**KSBHA Docket No. 16-HA00071**
Gregory H. Mears, D.O.,	)	
Kansas License No. 05-21870	)	

EX PARTE EMERGENCY ORDER OF LIMITATION AND ORDER FOR EMERGENCY PROCEEDINGS

NOW on this the 7th day of March, 2016, comes before Presiding Officer Joel Hutchins, M.D., the Petitioner's Motion for *Ex Parte* Emergency Order of Limitation and for Emergency Proceedings filed against Gregory H. Mears, D.O. ("Licensee") by the Kansas Board of Healing Arts ("Petitioner").

The Presiding Officer has reviewed the agency record in this matter, including the Petition seeking disciplinary action, Petitioner's Motion for *Ex Parte* Emergency Order of Limitation and for Emergency Proceedings ("Motion"), and all attached exhibits which were filed on February 29, 2016. The Motion requests that Licensee's license be emergently limited pending hearing proceedings on the Motion.

Based upon due consideration of the pleadings and exhibits in the agency record, the Presiding Officer finds, concludes and orders as follows:

1. Licensee is presently entitled to actively practice osteopathic medicine and surgery in the State of Kansas.

2. The Petition and Motion filed against Licensee's license in this matter contend that based upon complaints received by the Board in 2013 and 2014, alleging Licensee committed inappropriate medical practice acts and conduct, Licensee was referred to the Center

for Personalized Education for Physicians ("CPEP") for an assessment of his clinical competence. In December of 2015, Licensee voluntarily participated in an assessment at CPEP in the area of family medicine. The CPEP Assessment Report is attached to and incorporated in both the Petition and Motion as Exhibit 3.

3. The Presiding Officer is familiar with CPEP's assessment process and, based on his own expertise, finds it to be an impartial and credible evaluation method to determine whether a physician has the requisite clinical competence to safely practice within their identified specialty area.

4. Confidential

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5. The Petition specifically alleges that Licensee's Confidential are grounds for discipline against Licensee's license pursuant to K.S.A. 65-2836(b), for professional incompetency as further defined by K.S.A. 65-2837(a)(3), in that Licensee has exhibited a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice the healing arts. The Petition also alleges grounds for discipline pursuant to K.S.A. 65-2836(b), based on unprofessional conduct as further defined by K.S.A. 65-2837(b)(12) in that Licensee has committed acts that are likely to harm the public.

6. Petitioner contends that Confidential if not remedied, render Licensee unsafe to continue practicing in the areas of urgent and emergent care and prescribing of Schedule II and III controlled substances.

7. The Petition and Motion both allegConfidential

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8. The Petition and Motion both allege that, to date, Licensee has not Confidential

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Petitioner contends that Licensee's continuation in practice Confidential

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puts patients in immediate and imminent danger.

9. Pursuant to K.S.A. 65-2838(c) and in accordance with K.S.A. 77-536, the Presiding Officer has authority to issue an order without notice and hearing to temporarily limit a licensee's license if the Presiding Officer determines that there is cause to believe grounds exist under K.S.A. 65-2836 for disciplinary action and that a licensee's continued unlimited practice constitutes an immediate or imminent danger to the public health and safety. K.S.A. 77-536(b)(1) limits the Presiding Officer's authority to take action to only that which is necessary to prevent or avoid immediate danger to the public health, safety or welfare that justifies the use of emergency adjudication

10. Adequate medical knowledge, clinical judgment and reasoning, and medical documentation within a physician's specialty area are essential elements of safe practice.

11. Confidential

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12. Based on the findings in the CPEP assessment report, there is cause to believe grounds for discipline exist pursuant to K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(a)(3), in that the CPEP findings reflect "a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice the healing arts."

13. Confidential

Confidential

Without remediation, initially with 100% supervision in the outpatient and inpatient setting, Licensee's continued unlimited practice in the areas of urgent and emergent care and prescribing of Schedule II and III controlled substances creates an immediate or imminent danger to the health and safety of patients.

14. In order to prevent or avoid immediate danger to the public health, safety or welfare, it is necessary to emergently limit Licensee's license to prohibit practice in the areas of urgent and emergent care and prohibit prescribing of Schedule II and III controlled substances until such time as further hearing proceedings can be held on the Motion.

IT IS THEREFORED ORDERED that Licensee's license is hereby emergently LIMITED on a temporary basis. Such temporary LIMITATION prohibits Licensee from practicing in the areas of urgent and emergent care and from prescribing Schedule II and III

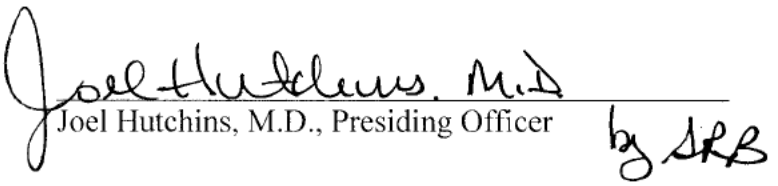
controlled substances pending further hearing proceedings on the Motion. Such temporary LIMITATION is effective upon issuance of this Order.

IT IS FURTHER ORDERED that Petitioner is hereby directed to expeditiously serve Licensee with a copy of this Order personally or by electronic means such that Licensee receives immediate notification of the temporary LIMITATION which has been imposed. Petitioner is further directed to file proof of service of this Order indicating the manner of such service.

IT IS FURTHER ORDERED that a hearing shall be conducted on the Motion to determine if the emergency LIMITATION should remain in place pending adjudication of the allegations in the Petition. A separate Notice of Hearing setting forth the date and time of such hearing shall be issued.

IT IS SO ORDERED this 7th day of March, 2016.

KANSAS STATE BOARD OF HEALING ARTS



Joel Hutchins, M.D., Presiding Officer

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the ***EX PARTE*** **EMERGENCY ORDER OF LIMITATION AND ORDER FOR EMERGENCY PROCEEDINGS** by placing the same in the U.S. mail, postage prepaid, on this the 8th day of March, 2016, to the following:

Gregory H. Mears, D.O.
Confidential

Independence, Kansas 67301

And a copy was delivered to the office of:

Reese Hays, Litigation Counsel
Susan Gering, Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson Street, Lower Level-Suite A
Topeka, Kansas 66612

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

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

Cathy A. Brown
Agency Staff Member