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MAY 16 2008

KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of	)	
	)	
NITINRAI PANDYA, M.D.	)	**Docket No. 08-HA-00172**
Application for License	)	
	)	

FINAL ORDER FOLLOWING CONFERENCE HEARING

NOW, on this 26th day of April, 2008, comes on for before the Kansas State Board of Healing Arts ("Board") the Application for Licensure to practice medicine and surgery in the state of Kansas filed by Nitinrai Pandya, M.D. ("Applicant"). Applicant appears in person *pro se*. Katy Lenahan, Licensing Administrator, presents information to the Board. There are no other appearances.

After reviewing the file, hearing the information provided by Ms. Lenahan and the testimony from Applicant, and being otherwise duly advised in the premises, the Board makes the following findings, conclusions and orders:

1. On or about February 8, 2008, Applicant filed an Application for Licensure to practice medicine and surgery in the state of Kansas.

2. As part of the Application, Applicant submitted a letter dated February 5, 2008, requesting that the Board grant the Application, without examination, pursuant to the provisions of K.S.A. 65-2833.

3. K.S.A. 65-2833 provides as follows:

> "**65-2833. Endorsement licenses; requirements.** The board, without examination, may issue a license to a person who has been in the active practice of a branch of the healing arts in some other state, territory, the District of

Columbia or other country upon certificate of the proper licensing authority of that state, territory, District of Columbia or other country certifying that the applicant is duly licensed, that the applicant's license has never been limited, suspended or revoked, that the licensee has never been censured or had other disciplinary action taken and that, so far as the records of such authority are concerned, the applicant is entitled to its endorsement. The applicant shall also present proof satisfactory to the board:

(a) That the state, territory, District of Columbia or country in which the applicant last practiced has and maintains standards at least equal to those maintained by Kansas.

(b) That the applicant's original license was based upon an examination at least equal in quality to the examination required in this state and that the passing grade required to obtain such original license was comparable to that required in this state.

(c) Of the date of the applicant's original and any and all endorsed licenses and the date and place from which any license was attained.

(d) That the applicant has been actively engaged in practice under such license or licenses since issued, and if not, fix the time when and reason why the applicant was out of practice.

(e) That the applicant has a reasonable ability to communicate in English.

An applicant for endorsement registration shall not be licensed unless the applicant's individual qualifications meet the Kansas legal requirements.

In lieu of any other requirement prescribed by law for satisfactory passage of any examination in any branch of the healing arts the board may accept evidence satisfactory to it that the applicant or licensee has satisfactorily passed an equivalent examination given by a national board of examiners in chiropractic, osteopathic medicine and surgery or medicine and surgery as now required by Kansas statutes for endorsement from other states."

4. With the letter dated February 5, 2008, Applicant provided information concerning the criteria for issuance of a license without examination as set forth in K.S.A. 65-2833 and K.A.R. 100-8-1.

5. The testimony and information provided by Applicant indicates he graduated from Seth G.S. Medical College, Mumbai, India, in December 1980 and received a license to practice medicine and surgery from the Maharashtra Medical Council, Mumbai, on February 17, 1981.

6. Applicant actively engaged in the practice of medicine and surgery in India until December 2005 when he came to the United States.

7. Information provided as part of the Application indicates that Applicant passed Step 1 of USMLE on August 31, 2007 and Step 2(CK) on December 21, 2007.

8. Applicant took and failed Step 2(CS) of USMLE on December 3, 2007. Applicant has not taken Step 3 of USMLE.

9. Applicant has not engaged in any postgraduate training in the United States.

10. Applicant currently holds no active license in any state of the United States.

11. From the information and testimony provided by Applicant, the Board cannot determine that the country of India has and maintains standards at least equal to those maintained by Kansas and that Applicant's license issued by Maharashtra Medicine Council was based upon examinations at least equal in quality to the examinations required in Kansas or that the passing grade was comparable to that required in Kansas.

12. Applicant's failure to pass USMLE Step 2(CS) and Step 3, and the lack of any postgraduate training in the United States raises concerns about Applicant's clinical skills and results in the Board being unable to determine that he meets the requirements of K.S.A. 65-2833 (a) and (b) in order to be eligible for licensure under K.S.A. 65-2833.

13. Based on the information available to the Board, the Board finds that Applicant is not eligible for licensure by endorsement pursuant to K.S.A. 65-2833.

14. Applicant's Application for Licensure should be denied for failure to meet the qualifications under Kansas statutes and the Board's rules and regulations.

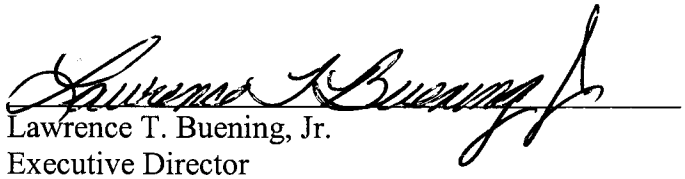
IT IS THEREFORE ORDERED that Applicant does not meet the qualifications for licensure under state law and his Application for Licensure is denied.

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 District Court as authorized under the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et seq*. A petition for judicial review is not timely unless filed within 30 days following service of the Final Order. A copy of any such petition must be served upon the Board addressed to the Executive Director, 235 S. Topeka Boulevard, Topeka, Kansas 66603. A request for reconsideration is not a prerequisite to judicial review.

DATED this 14th day of May, 2008.

KANSAS STATE BOARD OF HEALING ARTS



Lawrence T. Buening, Jr.
Executive Director

CERTIFICATE OF SERVICE

I, do hereby certify that on the 16th day of May 2008, a true and correct copy of the above and foregoing was deposited in the United States mail, first class postage prepaid to the following:

Nitinrai Pandya, M.D.
Confidential

Los Alamos, NM 87544

and a copy hand delivered to the office of:

Katy Lenahan, Licensing Administrator
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, KS 66603

and the original filed with the office of the Executive Director.

Lawrence T. Buening, Jr.
Executive Director
(785) 296-3680