

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

In the Matter of)	
)	
KRISHNA RAJANNA, M.D.)	Docket No. 05-HA-58
Kansas License No. 04-15624)	
<hr style="width: 100%;"/>)	

FINAL ORDER

NOW ON THIS Eleventh Day of June 2005, this matter comes on for review of the Initial Order issued April 1, 2005 by Nancy J. Welsh, M.D., Presiding Officer. Stacy L. Cook, Litigation Counsel, appears for Petitioner. Respondent appears in person and through Robert W. Manske, Attorney at Law.

Having the agency record before it, consisting of the exhibits in this case and the public records of the Board’s prior proceedings, the Board adopts the findings, conclusions, and order stated in the Initial Order as follows:

1. The Board limited the license of Respondent in a consent order dated February 12, 2005. The basis for the limitation was Respondent’s failure to maintain a sanitary clinic and to properly maintain medications. The limitations placed guidelines that Respondent must meet in order to practice medicine and surgery. The order also stated that the Board would conduct unannounced inspections to ensure compliance with the limitations.

2. On March 22 and 24, 2005, a Board investigator conducted unannounced inspections of Respondent’s office.

3. Following that inspection, Petitioner sought an *ex parte* order suspending Respondent's license. The Presiding Officer found that there was an imminent threat to the public health, safety and welfare, and granted Petitioner's motion.

4. The Board finds that clear and convincing evidence was produced at the hearing establishing that on March 24, 2005, the Board investigator observed a dead rodent in a clinic hallway, carpet was not vacuumed and showed visible dirt, trash cans did not have lids, and the toilet in a public restroom was not clean. The Board investigator also observed pre-drawn syringes that included controlled substances in an unsecured refrigerator. The syringes were not properly labeled. The Board investigator also observed the medical waste container having no lid in place. Medical waste items were in the container. The Board adopts the findings of fact and conclusions of law stated in the Emergency Order dated March 25, 2005.

5. The Board finds and concludes that Respondent has violated the healing arts act by engaging in acts described at K.S.A. 65-2836. Specifically, Respondent has engaged in unprofessional conduct as provided by subsection (b) and as defined by K.S.A. 65-2837(b) (12), has repeatedly violated the Kansas pharmacy act as provided by subsection (f), and has violated a federal law relating to controlled substances as provided by subsection (q).

7. Specifically, Respondent engaged in unprofessional conduct as described at K.S.A. 65-2837(b)(12) by continuing his conduct that is likely to harm the public. The evidence shows that he maintained medical waste by placing materials in a container following a procedure, but the waste container was found to not have a lid on both occasions that the Board investigator inspected the clinic. The Board finds and concludes

that this conduct is not only likely to harm the public, which includes Respondent's employees, but is also an unreasonable risk that a physician should recognize. The improper disposal of medical waste was an issue that required correction by the February 2005 order.

8. Respondent has also violated the pharmacy laws of this state and the federal laws regarding controlled substances, as proscribed by K.S.A. 65-2836(f), by storing pre-drawn and unlabeled syringes containing prescription-only drugs, including the controlled substance Versed, in a refrigerator that was not locked and that was accessible to the public. K.A.R. 68-20-15a specifically requires secure storage of controlled substances, which adopts the requirements for safe storage as further set out at 21 C.F.R. § 1301.73. Respondent does not store Versed in accordance with that federal regulation. The Board notes that these violations also were detected and addressed by the February 2005 order, but were not corrected by the time of the March 31 hearing.

9. Respondent argues that he should not be subject to discipline for these violations because the February 12, 2005 consent order, at paragraph 17(c), states that the Board will provide him a checklist for inspections. While many of the subjective concerns for cleanliness and clutter might be well described in such a checklist, that provision of the consent order cannot be interpreted to allow Respondent to engage in conduct that is likely to cause harm to the public, or that violates pre-existing state and federal laws.

10. Respondent does not dispute that his practice has deficiencies, but suggests that he has made attempts to correct many of these deficiencies. Additionally, he has complied with some of the February 12 requirements, such as becoming ACLS

certified. The Board finds that this does not sufficiently mitigate the violations of the healing arts act in light of the aggravating circumstances. The Board has issued two other remedial orders arising out of Respondent's practice. The first order was entered April 10, 2000, which included a fine for drug-dispensing violations. The second order was entered July 3, 2001 for failing to provide Rh factor tests prior to terminating pregnancy for women whose blood type was unknown, and for failing to fulfill the Women's Right-to-Know act information. On the second occasion, Respondent was again ordered to pay a fine and to cease the misconduct.

11. In light of the ongoing nature of the violations, and in light of the prior disciplinary history, the Board finds and concludes that Respondent's license should be revoked.

12. Petitioner requests a protective order to prevent disclosure of the investigative reports and the photographs taken during the inspection. The Presiding Officer concludes that K.S.A. 65-2839a does make investigative reports and information confidential. However, the items were offered as exhibits in an open public hearing and are part of the agency record. These items exist as part of the agency record other than as investigative records, and are presumed to be open to the public under the Kansas open records act, K.S.A. 45-215, *et seq.* Under the open records act, the Board may decline to disclose medical records identifying individuals and information that would constitute a clearly unwarranted invasion of personal privacy. Petitioner's request is granted as to the patient names that are disclosed in Exhibit 19. Those names shall be removed, and the remaining record shall be considered an open public record. The remaining exhibits shall be considered open public records.

IT IS, THEREFORE, ORDERED that the license of Respondent Krishna Rajanna, M.D. is revoked.

PLEASE TAKE FURTHER 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. 77-601, et seq. Reconsideration of a 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 SW. Topeka Blvd., Topeka, KS 66603.

Dated this 14th Day of June 2005.

**KANSAS STATE BOARD OF
HEALING ARTS**

____/s/
Lawrence T. Buening, Jr.
Executive Director

Certificate of Service

I certify that a true copy of the foregoing order was served this 14th day of June 2005 by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Krishna Rajanna, M.D.
838 W. 39th Terrace
Kansas City, MO 64111

Robert W. Manske
108 W. Cedar
Olathe, KS 66061

And a copy was hand-delivered to the office of

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

_____/s/ Sheryl Snyder_____