

SOUTH DAKOTA BOARD OF MEDICAL AND OSTEOPATHIC EXAMINERS

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IN THE MATTER OF THE APPLICATION  
FOR SOUTH DAKOTA RESPIRATORY CARE  
PRACTITIONER LICENSURE  
SUBMITTED BY CLARK DEAN GILPIN

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

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WHEREAS, the investigative review panel of the South Dakota Board of Medical and Osteopathic Examiners consisting Mr. Bernie Christenson, board member investigator, Margaret B. Hansen, executive director, Donald N. Srstka, general counsel, and H. Adrian Mohr, board investigator, having performed due diligence with regard to the application of Clark Dean Gilpin for licensure, and the South Dakota Board of Medical and Osteopathic Examiners, being fully advised of the premises, hereby makes and enters its:

**FINDINGS OF FACT**

1. December 4, 2007 - Clark Dean Gilpin, hereinafter called Applicant, signed and submitted his initial application for licensure.
2. December 6, 2007 – Board staff received the verification of employment form completed by Kingman Regional Medical Center indicating that Applicant was terminated for policy violations.
3. December of 2007 - Applicant sent a note that he will be working in Rapid City and requesting that his license be issued to him immediately because he was scheduled to start work January 2, 2008.
4. December 12, 2007 – Board staff emailed notice to Applicant inquiring about his plans to practice in Rapid City, and informing him about the discrepancies on his initial application regarding his termination from Kingman Regional Medical Center; the Board staff requested an explanation regarding Applicant’s failure to explain the termination on his initial application.
5. December 12, 2007 - Board staff mailed a letter to Kingman Regional Medical Center along with the copy of Applicant’s signed release.
6. December 18, 2007 - Applicant resubmitted a copy of page 2 of the initial application along with Applicant’s signed statement explaining that he was terminated from Kingman Regional Medical Center due to not wearing the proper scrubs for three days and for continuing to say "God Bless" to his patients.

7. December 24, 2007 - Kingman Regional Medical Center replied by letter stating that Applicant was terminated for gross misconduct, sexual harassment, and was not eligible for rehire.
8. December 27, 2007 - Applicant emailed board staff asking when he would receive his license as he was due to start employment in Rapid City on January 7, 2008; the Board staff responded by email that his application was under review.
9. January 4, 2008 - Board staff wrote a letter to Applicant informing him that the information he provided was not the same as the information provided by Kingman Regional Medical Center.
10. January 8, 2008 – Applicant appeared at the board office and was questioned by members of the Board staff about the termination for gross misconduct and sexual harassment.
11. Applicant stated that he was told by Kingman Regional Medical Center that he did not need to report the reason for the termination, which he stated was for consoling another employee by patting her on the back, and that there are no other complaints.
12. January 10, 2008 – The Board staff wrote a letter with an original signed release to Kingman Regional Medical Center requesting all information regarding the termination.
13. January 18, 2008 - Kingman Regional Medical Center sent all the information regarding the termination including statements from eye-witnesses stating that Applicant did engage in inappropriate behavior and was in violation of the sexual harassment policy of the facility.
14. On or about January 21, 2008, Applicant telephoned the Board office and advised that he wanted to withdraw his application and his application fee refunded; the Board staff requested Applicant provide a written request to withdraw, but Applicant stated that he had found a job in another state, wanted his money returned, and then ended the conversation.

### **CONCLUSIONS OF LAW**

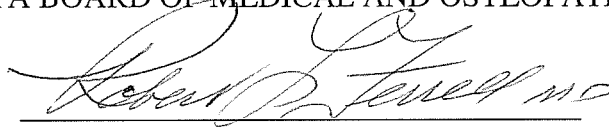
1. The Board has jurisdiction over the application for licensure under the provisions of SDCL Chapter 36-4C.
2. The applicant has the burden of proving that he is competent and that he is of good moral character.
3. The Board has the power to refuse to grant a license for unprofessional, immoral or dishonorable conduct on the part of the applicant.

4. In determining whether to grant a license to an applicant, the Board may consider discipline of the applicant by another state.
5. The Board has evidence that the applicant has not met his burden of proving that he is of good moral character.

IT IS HEREBY ORDERED that the Findings of Fact and Conclusions of Law herein are approved.

Dated this 26<sup>th</sup> day of March, 2008

SOUTH DAKOTA BOARD OF MEDICAL AND OSTEOPATHIC EXAMINERS



Robert L. Ferrell, MD, President

STATE OF SOUTH DAKOTA } S.S.  
MINNEHAHA COUNTY }

I hereby certify that the foregoing instrument is a true and correct copy of the original as the same appears on the record in my office.

Executive Secretary

By MBH by [Signature]  
Date 3-26-08

**THE SOUTH DAKOTA BOARD OF MEDICAL AND OSTEOPATHIC EXAMINERS**

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IN THE MATTER OF THE  
APPLICATION FOR SOUTH DAKOTA  
RESPIRATORY CARE PRACTITIONER  
LICENSURE SUBMITTED BY CLARK  
DEAN GILPIN

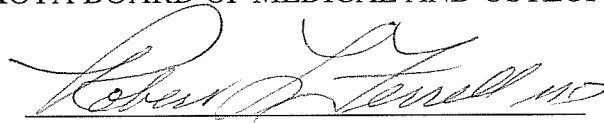
ORDER APPROVING  
FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

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Whereas, the Members of the South Dakota Board of Medical and Osteopathic  
Examiners having been advised in the premises did affirm the Findings of Fact and Conclusions  
of Law in their entirety, and for good cause thereby shown, it is hereby ORDERED that the  
Findings of Fact and Conclusions of Law dated the same date herein are approved and affirmed  
in their entirety, and it is further ORDERED that the application for licensure is denied.

Dated this 26<sup>th</sup> day of March, 2008

SOUTH DAKOTA BOARD OF MEDICAL AND OSTEOPATHIC EXAMINERS



Robert L. Ferrell, President

STATE OF SOUTH DAKOTA } S.S.  
MINNEHAHA COUNTY }  
I hereby certify that the foregoing  
instrument is a true and correct copy  
of the original as the same appears  
on the record in my office.

Executive Secretary

By MBH by jpd  
Date 3-26-08