

SOUTH DAKOTA BOARD OF MEDICAL AND OSTEOPATHIC EXAMINERS

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IN THE MATTER OF THE INITIAL  
APPLICATION FOR SOUTH  
DAKOTA MEDICAL LICENSURE  
LICENSURE SUBMITTED BY  
MARK WENDELL SWAIM, MD

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 having performed due diligence with regard to the application for medical license submitted by Dr. Mark W. Swaim, 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. Mark W. Swaim, MD, the Applicant, filed an application for a medical license on or about August 4, 2009.
2. The Application, among other things, required Dr. Swaim to disclose:
  - whether he had been notified of a complaint by a medical facility or health-related entity.
  - whether he had been subject to proceedings or investigations for any reason by any medical facility or health-related entity.
  - whether he had a mental or emotional condition which could preclude him from performing the essential functions of his practice.
3. During the verification process, the Board discovered that the Applicant failed to disclose that at his last place(s) of employment, he was the subject of multiple complaints due to his disruptive behavior, that he failed to complete a voluminous amount of required dictation at all his facilities, that he was required to undergo a 3 day evaluation due to his disruptive behavior, and that he was under medical care for emotional issues.
4. On September 1, 2009, the Applicant was notified that he was under investigation.
6. On September 4, 2009, he requested in writing that his application be withdrawn.

7. On September 18, 2009, the Applicant was notified in writing that his application would be withdrawn while under investigation and reported to the Federation of State Medical Boards and published to the Board's Web site unless he responded prior to October 7, 2009.
8. To the best of the Board's knowledge and belief, the Applicant received the notification and did not choose to respond; therefore, this withdrawal constitutes a withdrawal of application for licensure while under investigation or to avoid the results of an investigation.

### **CONCLUSIONS OF LAW**

1. The Board has jurisdiction over the application for licensure under the provisions of SDCL Chapter 36-4.
2. The Applicant has the burden of proving that he is qualified, competent and is of good moral character. Applicant did not meet this burden.
3. The Applicant failed to respond to the notice that his application would be considered withdrawn while under investigation and reported as outlined above.
4. The initial application of Dr. Mark Swaim is hereby considered withdrawn while under investigation or to avoid the results of an investigation.

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

Dated on March 17, 2010.

SOUTH DAKOTA BOARD OF MEDICAL AND OSTEOPATHIC EXAMINERS

  
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Margaret B. Hansen  
Executive Director

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

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IN THE MATTER OF THE INITIAL  
APPLICATION FOR A SOUTH  
DAKOTA MEDICAL LICENSE  
SUBMITTED BY  
MARK WENDELL SWAIM, MD

ORDER TO GRANT  
WITHDRAWAL OF INITIAL  
MEDICAL LICENSE  
APPLICATION WHILE UNDER  
INVESTIGATION

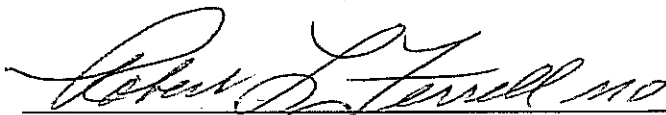
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The above-entitled matter having come before the South Dakota Board of Medical and Osteopathic Examiners, and the Board having been informed that an investigation was initiated by members of the Board's Investigative Review Panel due to information found during the application process; and the applicant subsequently requesting that he be allowed to withdraw the initial application for licensure; and the Board being fully advised in the premises and having heretofore made and entered its Findings Of Fact And Conclusions Of Law,

IT IS THEREFORE ORDERED that the application of Mark Wendell Swaim, MD, be considered withdrawn while under investigation, and

IT IS FURTHER ORDERED that its Findings of Fact and Conclusions of Law and the Order are public documents that will be reported as the Board deems necessary, and placed in the investigative file for further investigation and consideration should the applicant submit an application for licensure in the future.

SOUTH DAKOTA BOARD OF MEDICAL AND OSTEOPATHIC EXAMINERS

 Date: 7 Apr 10  
Robert Ferrell, President, SDBMOE