



COLBY FREE PRESS

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Board to revoke doctor's license

Hildyard expected to appeal decision in Thomas County District Court

By Patty Decker

Free Press Editor

A Colby doctor's license to practice medicine will soon be revoked following a decision Saturday by the Kansas State Board of Healing Arts, the agency that regulates physician licenses.

Dr. Victor H. Hildyard, who has practiced medicine for more than 30 years, will lose his medical license once the final order is released, said Mark Stafford, the Kansas Board of Healing Arts' general counsel. Hildyard was accused of 19 violations regarding misconduct and patient care.

The timeframe for when that final order is served to Hildyard was not available, but Stafford said it will take several days. Hildyard's attorney, Mike O'Neal of Hutchinson, said the board didn't advise Hildyard of the reasons for their "shocking



V. Hildyard

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Mike O'Neal
attorney for Dr. Victor Hildyard

departure" from the detailed decision. "Without stating their reasoning for the decision, as required by state law, the board voted to revoke Hildyard's license, which is now subject to appeal and review by the District Court of Thomas County," O'Neal said.

Stafford said if the district court were to overturn the state board's decision the board would then appeal to the Kansas Court of Appeals.

Another issue O'Neal found inappropriate was the board's request to have Hildyard testify Saturday.

"This hearing was marked by the board's attempt to reopen the record of the administrative hearing by requiring additional testimony from Dr. Hildyard," O'Neal said.

He said the agenda for the board's meeting was posted as "deliberation on Review

of Initial Order and Issue Final Order." O'Neal said nothing was stated about seeking additional evidence or testimony.

In January, the board's hearing officer Edward Gaschler recommended dismissing 16 of the 19 charges against Hildyard. Those 16 were in regard to medical decisions and patient care.

Stafford said the board had requested Hildyard appear at the meeting.

"The board did not see their request as out of the ordinary," Stafford said. "The board's final order said Hildyard needed to be there." O'Neal denied the request saying the board had no legal authority to do that. Quoting from Kansas statute, O'Neal said the law provides findings of fact shall be based exclusively upon the evidence of record in the adjudicative proceeding. "State law requires that their decision

when reviewing the hearing officer's initial order must be limited to the record before them," he said.

It was O'Neal's belief Board Chairman Roger D. Warren of Hanover was not happy with his assertion of Hildyard's right to have the review limited to the record created during a nine-day hearing in 2005.

Warren threatened license revocation as a remedy should Hildyard not testify, O'Neal said.

Stafford said it's not unusual for the board to request testimony "peer to peer."

Had Hildyard agreed to testify in front of the board, Stafford speculated it would have centered around "peer cases," but could not be more specific.

O'Neal said the board was "unpleasantly surprised" that their \$70,000 plus investment in the case had turned out in Hildyard's favor after the nine-day hearing.

"I believe the Board was looking for something they could add to the record to justify altering the hearing officer's decision," O'Neal said.

Stafford could not comment. "I need to wait to discuss this until after the final order is served," he said.

O'Neal said, by state law the board's final order must identify any difference between the final order and the hearing officer's initial order. It must include conclusions of law and any policy reasons for

the decision including the sanction.

Hildyard may seek a stay of the board's decision, either from the board or the Thomas County District Court, and to appeal the final decision.

Saturday's decision will be reviewed by the District Court of Thomas County. District Judge Jack Burr will determine whether to uphold the board's decision, reinstate the hearing officer's decision or make other findings.

"I was disappointed with the board's attempted disregard of Hildyard's procedural rights and for a decision that is so far afield from the facts in the record as to raise serious questions concerning the board's motives," O'Neal said today.

"It was apparent that the Saturday decision seemed to be based more on the board's attitude toward counsel's asserting Hildyard's rights than on any analysis of the facts."

O'Neal said decisions by the board are to be in the best interest of patient care.

"This decision, if upheld, would actually be detrimental to patient care in northwest Kansas," he said. "What remedy do patients in Northwest Kansas have when the board takes action that is not in their best interests?"

Stafford said the board will also ask for a stay of its decision at the district court if overturned.



TISHA COX/Colby Free Press

Two-car wreck kills Atwood woman

By Tisha Cox

Colby Free Press

An Atwood woman was killed in a two-car accident Sunday night.

According to the Kansas Highway Patrol, Constance S. Lillich, 50, of Atwood, died in the wreck which happened at 10:33 p.m. at the intersection of U.S. Highways 83 and 24, commonly known as Nine Mile Corner.

The intersection is nine miles east of Colby.

Lillich was driving west on U.S. Highway 24 in her 2000 Buick when she was hit by a 1995 Chevy driven by Josefa Alanis, 46, of Lexington, Neb.

Alanis was driving south on U.S. Highway 83 and failed to stop at a stop sign. She, along with passen-

ger Selena Martinez, 24, also of Lexington, were ejected from the vehicle and taken to Citizens Medical Center in Colby. Neither Alanis nor Martinez were wearing seatbelts.

Gwen Young, administrative assistant at Citizens Medical Center, said both were later transported to an undisclosed facility.

Kristen Brands, public affairs manager with Kansas Department of Transportation's District Three in Norton, said the last fatality at the intersection was about 18 months ago.

Many accidents have happened at the intersection over the years. Brands said a study and installation of a flashing light on the stop signs at the intersection have been efforts to improve safety.

Charges filed in fatal accident

By Jan Katz Ackerman

Colby Free Press

A Colby woman has been charged with the death of two Colby people stemming from a car and motorcycle crash.

Dawnelle L. Umberger, 34, has been charged in Thomas County District Court with vehicular homicide for the unintentional deaths of Roger L. Blau and Roberta Casey.

Blau and Casey were riding a motorcycle Oct. 1, 2005, when Umberger is alleged to have failed to yield the right-of-way to them, a traffic infraction for which she's also charged.

If convicted, and depending on a presentence investigation, Um-

berger faces up to one year in the Thomas County jail and a fine up to \$2,500.

According to court documents, Umberger is alleged to have unintentionally killed Blau and Casey by operating her car in a manner which "created an unreasonable risk of injury" to them. She is also alleged to have deviated from the standard of driving care a "reasonable person would observe under the same circumstances."

Those same court documents state Blau and Casey were approaching Umberger when she failed to yield to them before crossing the road they were traveling.

The accident took place on Range Avenue near Colby Bowl.

Sale-a-bration

People looking for bargains at Saturday's city-wide garage sales were also able to find refreshments along the way. Above, Chase Harlow, left to right, Matthew Minchow, Zach Harlow and Colby Minchow, were selling lemonade, water and soft drinks as the temperatures headed toward 100 degrees. The boys had their stand at Jill Minchow's garage sale, 315 S. Grant. Right, Janette Clapp of McCook, Neb. looked over wares at one of the sales in the parking lot of the Thomas County Office Complex. More than 30 garage sales were held Saturday in Colby as part of the Colby High Plains Lions/Highway 25 Association-sponsored event.



Attorney General Kline to visit Colby

Kansas Attorney General Phill Kline will visit Colby at 11 a.m., Tuesday, at the Thomas County Courthouse, 300 N. Court Ave. Kline filed for reelection to the attorney general's office today.

In addition to visiting Colby, Kline traveled from Topeka to Olathe, Pittsburg, Wichita and Garden City today.



Phill Kline