

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

KS State Board of Healing Arts

In the Matter of)
BRIAN P. LAHEY, M.D.)
)
Kansas License No. 04-33861)
_____)

Docket No. 19-HA00005

FINAL ORDER

APPROVAL OF PATIENT CHAPERONE
AND
APPROVAL OF CHANGE OF DESIGNATION OF LICENSE

On June 10, 2022, the Kansas State Board of Healing Arts (“Board”) held a hearing on Dr. Brian P. Lahey’s request to approve a patient chaperone and his application for a change of designation/type of his Kansas M.D. license from inactive to active. Matthew Gaus, Associate Litigation Counsel and J. Todd Hiatt, Litigation Counsel, appeared to present the position of the disciplinary panel of the Board. Brian P. Lahey, M.D. (“Dr. Lahey”), appeared *pro se*.

This matter is conducted pursuant to the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*

Findings of Fact

Upon review of the agency record in KSBHA Docket No. 19-HA00005, including the filings, applications, testimony, and exhibits, the Board finds, concludes and orders as follows

1. The hearing was conducted in closed session under the provisions of K.S.A. 77-523(f) for the presentation of information that is confidential under **CONFIDENTIAL**
2. Dr. Lahey has a valid Kansas M.D. inactive license, License No. 04-33861.

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3. On or about April 16, 2019, the Board issued a Consent Order in this case resolving allegations: **CONFIDENTIAL**

CONFIDENTIAL (2) had an inappropriate intimate relationship with a patient; (3) entered into inappropriate financial obligations with a patient; (4) continued to treat patients after his license was emergently suspended; and (5) generally failed to set appropriate boundaries with his patients. The Consent Order indefinitely suspended Dr. Lahey's M.D. license with the option for Dr. Lahey to apply to the Board for reinstatement of his license at a future date. Any application for reinstatement was to be governed by the factors listed in *Vakas v. Kansas Board of Healing Arts*, 248 Kan. 589, (Kan. 1991).

4. Upon successful completion **CONFIDENTIAL**
CONFIDENTIAL (March 4, 2019 to May 1, 2020), Dr. Lahey filed a motion to terminate the suspension of his M.D. license and requested to return to the practice of medicine.

5. On or about June 19, 2020, the Board issued the First Amended Consent Order that reinstated Dr. Lahey's Kansas M.D. inactive license with limitations as follows

1. Dr. Lahey may practice in an institutional setting;
2. Dr. Lahey may practice in a group practice but shall not treat female patients;
3. Dr. Lahey shall not practice in a solo, office sharing, or similar settings;

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6. Dr. Lahey shall have a workplace monitor to supervise his practice for a period of two years. CONFIDENTIAL
7. Dr. Lahey shall maintain impeccable professional boundaries and will have no personal or social relationships with patients regardless of gender;
8. Dr. Lahey shall not treat any patients without having a chaperone present at all times. Any proposed chaperone must speak with the Board (or designated staff member) and be approved by the Board;
9. for five years the chaperone shall create, maintain, and submit to the Board a daily log of all patients seen by Dr. Lahey;

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The monitoring provisions are not self-terminating. After a period of five years, Dr. Lahey may request the Board to modify or terminate the provisions.

6. Dr Lahey proposes Christy Goble, RN (MO License # 2001017541 - she has not yet obtained a Kansas R.N. license), as his proposed patient chaperone. Ms. Goble is the Nurse Manager at CONFIDENTIAL (“RHCL”), which is the facility responsible for the individual patients that Dr. Lahey proposes to work with.
7. The First Amended Consent Order requires the proposed chaperone to be an adult, to

Speak with the Board, and to be approved by the Board prior to functioning as Dr. Lahey's patient chaperone.

8. On or about June 2, 2022, Litigation Counsel filed a Response to Licensee's Request for Change of Designation. In the response Litigation Counsel notes the following

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2. Dr. Lahey has submitted a proposal that addresses each of the Board's prior concerns with him returning to active practice; and

3. Litigation Counsel and Disciplinary Panel #33 **do not advocate nor object** to Dr. Lahey's proposal but take the position that the entire Board should determine whether

1. Dr. Lahey's proposed practice monitoring and patient chaperone conditions satisfy the requirements of the First Amended Consent Order; and

2. to grant or deny Dr. Lahey's Application for a Change in Designation of his Kansas M.D. license from inactive to active.

9. Christy Goble, R.N., testified at the hearing that

1. she has worked at RHCL for at least 15 years and has known Dr. Lahey for at least ten years;

2. she is an advocate for people with developmental and intellectual disabilities

and their care is of utmost importance;

3. at RHCL some psychiatrists come and go, they'll stay for three months and then they leave. Several patients in the last three years have seen two to three psychiatrists so it's important to have someone there that knows them and is able to take care of them the way they deserve to be taken care of;

4. she was working with Dr. Lahey using telemedicine when he had his initial problems that led to the original KSBHA Consent Order. During that time, she never noticed anything wrong with Dr. Lahey's conduct;

5. RHCL will bring the patients to Dr. Lahey at the RHCL office in Overland Park, Kansas. If approved as Dr. Lahey's chaperone, Ms. Goble, will be physically present and not leave the room during the entire time Dr. Lahey is with patients. As the patient chaperone, Ms. Goble will monitor, document, and report anything she finds concerning;

6. Dr. Lahey will see no female patients at RHCL;

7. other than their prior professional working relationship, there is no other relationship that would present a bias or conflict of interest by her serving as a patient chaperone for Dr. Lahey; and

8. she is comfortable with being the patient chaperone for Dr. Lahey and she is one hundred percent dedicated to the individual patients and wants the best care possible for them.

10. Dr. Naser Oliver Soghrati, M.D., Dr. Lahey's worksite practice monitor, testified at the hearing that

1. Dr. Lahey, in his role at RHCL, will not perform any procedures, will not take any call for RHCL, will not be handling any emergent cases, and Dr. Lahey will see from ten to 15 patients per day; and
2. that during the time when Dr. Lahey had his initial problems that led to the original KSBHA Consent Order, Dr. Soghrati was practicing in several towns, including Albany, Missouri, but was not intimately involved with Dr. Lahey at that time. During this time Dr. Soghrati did not observe anything of concern regarding Dr. Lahey's conduct or their mutual patients at RHCL.

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12. Dr. Lahey testified at the hearing that

1. he takes full responsibility for his past mistakes;
2. his behavior was maladaptive, destructive, unprofessional, and caused so many problems for so many;
3. he is seeking constructive ways to become a person whose judgement meets the standards of this profession and looks forward to proving he is an example of the path for someone to rehabilitate and get back to work as a professional;

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5. from 2007 to 2017 he treated patients at RHCL without incident;
6. Christy Goble, R.N. has been involved with his treatment of patients at RHCL in the past;
7. Ms. Goble in her role as his patient chaperone will
 1. accompany each individual and remain present throughout the duration of every psychiatric visit with Dr. Lahey;
 2. maintain the visit log by which each individual is assigned a number and the visit log will be submitted to the Board's compliance coordinator by the 15th of the following month; and
 3. meet with Dr. Soghrati (Dr. Lahey's practice monitor) about the care that Dr. Lahey's patients are receiving at RHCL;
8. other than their prior professional working relationship, there is no other

relationship that would present a bias or conflict of interest in Ms. Goble serving as a patient chaperone for Dr. Lahey; and

9. his continuing education hours are current as of the time the application for change in license designation was submitted to the Board.

13. The Board finds that Christy Goble, R.N, is (1) an adult; (2) has testified before the Board regarding her role as the proposed patient chaperone; and (3) is qualified to perform the role of patient chaperone for Dr. Lahey as required by the First Amended Consent Order.

14. The Board finds that the documents and testimony in the agency record, absent any new or additional evidence, demonstrate (1) Dr. Lahey's current compliance with the provisions and limitations of the Consent Order and the First Amended Consent Order; (2) Dr. Lahey's actions to take responsibility for and correct his past mistakes provide a commitment to honoring and protecting the safe practice of medicine for the benefit of his future patients and the Board; and (3) Dr. Lahey's past and ongoing completion of remedial actions provide a basis for the Board to conclude Dr. Lahey is qualified to be licensed to safely practice medicine with limitations in Kansas.

Conclusions of Law

1. K.S.A. 65-2801 states the purpose of the Board and the healing arts act is to properly protect the public against unprofessional, improper, unauthorized, and unqualified practice of the healing arts and from unprofessional conduct by persons licensed to practice under this act.

2. K.S.A. 65-2836(f) authorizes the Board to revoke, suspend, or limit a licensee's

license if the licensee has willfully or repeatedly violated the healing arts act.

3. On or about April 16, 2019, the Board issued a Consent Order in this case indefinitely suspending Dr. Lahey's M.D. license for violations of the Kansas Healing Arts Act. The Consent Order provided the option for Dr. Lahey to apply to the Board for reinstatement of his license at a future date.

4. On or about June 19, 2020, the Board issued the First Amended Consent Order in this case reinstating Dr. Lahey's Kansas M.D. inactive license with multiple limitations.

Final Order

IT IS THEREFORE, ORDERED

1. Christy Goble, R.N., is **APPROVED** as the patient chaperone for Dr. Lahey subject to the following requirements

1. Ms. Goble will accompany each RHCL patient seen by Dr. Lahey. Ms. Goble will be physically present in the room through the duration of the entire patient visit. At no time and under no circumstance will Dr. Lahey be alone with a patient.
2. Ms. Goble shall meet weekly with Dr. Soghrati (Dr. Lahey's worksite practice monitor) about the care that Dr. Lahey's patients are receiving.
3. Ms. Goble shall submit the monthly reports listed below to the Board's Compliance Coordinator to be received on or before the 15th day of the following month:

- a. a daily log (created and maintained by Ms. Goble) identifying by a numbering system that can be correlated to the RHCL patient identity of all patients seen by Dr. Lahey that day; and
- b. a summary report of the weekly meetings between Ms. Goble and Dr. Soghrati evaluating Dr. Lahey's care and treatment of patients at RHCL. This summary report is to be signed by both Dr. Soghrati and Ms. Goble.

4. The patient chaperone provisions are not self-terminating. After a period of five years, Dr. Lahey may submit a written request to the Board to modify or terminate these provisions.

2. Dr. Lahey's application for change in designation of his Kansas M.D. license type from inactive to active is **APPROVED** subject to the **following limitations**

1. Dr. Lahey's practice is limited to seeing RHCL patients for psychiatric visits at the RHCL Overland Park office. All of Dr. Lahey's patient visits shall be with Christy Goble, R.N., present in person functioning as his patient chaperone in compliance with the chaperone requirements listed above. Dr. Lahey's active license is limited to practicing in strict compliance with the above-described practice location and RHCL psychiatric patient population. Dr. Lahey must receive prior approval in writing from the Board for any change in these requirements.
2. Dr. Lahey shall not see or treat female patients.
3. Any change in Ms. Goble's personal involvement or level of participation as

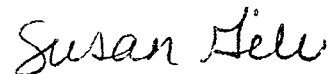
the patient chaperone for Dr. Lahey must receive prior approval in writing from the Board.

4. Any change in Dr. Soghrati's personal involvement or level of participation as the worksite practice monitor for Dr. Lahey must receive prior approval in writing from the Board. The worksite practice monitoring provisions are not self-terminating. After a period of two years, Dr. Lahey may submit a written request to the Board to modify or terminate these provisions.

3. Unless specifically modified by the provisions of this final order all provisions of the 2019 Consent Order and 2020 First Amended Consent Order remain and continue in full effect.

IT IS SO ORDERED this 27th day of June 2022.

Kansas State Board of Healing Arts



Susan Gile
Acting Executive Director

NOTICE OF APPEAL RIGHTS

PLEASE TAKE NOTICE that this is a Final Order. A Final Order is effective upon service, and service of a Final Order is complete upon mailing. Under K.S.A. 77-529, parties may petition the Board for Reconsideration of a Final Order within fifteen (15) days following service of the final order. Additionally, 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 Susan Gile, Acting Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing Order was served this 21st day of June 2022

by depositing the same in the United States Mail, first-class postage prepaid, and via email,

addressed to:

Brian P. Lahey, M.D.

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Licensee


And copies were hand-delivered to:

Matthew Gaus, Associate Litigation Counsel
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Kansas State Board of Healing Arts
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and the original was filed with the office of the Executive Director.

Susan Gile, Acting Executive Director
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612


Staff Signature