

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

KS State Board of Healing Arts

In the Matter of)	
Howard C. Halvorson, M.D.)	
)	Docket No. 23-HA00024
Application for Reinstatement of)	
License to Practice Medicine and Surgery)	
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**FINAL ORDER ON
APPLICATION FOR REINSTATEMENT OF EXEMPT LICENSE**

On April 14, 2023, this matter came before the Kansas State Board of Healing Arts (“Board”) for a Conference Hearing to review the above stated application for reinstatement of an exempt medical license.

Howard C. Halvorson, M.D. (“Dr. Halvorson” or “Applicant”) appeared in person, *pro se*. James McSweyn, Associate Litigation Counsel, appeared in person to present the position of the Disciplinary Panel #38.

Under the authority granted to the Board by the Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*, and in accordance with the provisions of the Kansas Administrative Procedure Act, (“KAPA”), K.S.A. 77-501 *et seq.*, the Board enters this Final Order on Application for Reinstatement of Exempt License. Having reviewed the entire agency record, considered the testimony, evidence, and oral arguments, and being duly advised in the premises, the Board makes the following findings, conclusions, and orders.

FINDINGS OF FACT

1. On or about February 23, 2023, a partially complete application for reinstatement of an exempt license for Dr. Halvorson was filed with the Board, including payment of the application fees.
2. Dr. Halvorson disclosed on his application that he had closed his urology practice in December of 1996 and held an exempt license since that time.
3. On or about July 31, 2022, Dr. Halvorson’s exempt license was canceled for failure to renew.
4. Dr. Halvorson’s reinstatement application listed the following professional activities he is interested in performing if reinstated to an exempt license: (a) consultant; (b) charitable health care provider; (c) administration; and (d) treatment of family and friends with no compensation.

5. The Board's Disciplinary Panel #38 ("DP #38") considered Dr. Halvorson's application material and directed Dr. Halvorson to demonstrate, prior to further consideration of his reinstatement application, his present clinical competence by either:
 - (1) successfully completing the Re-entry to Clinical Practice Program offered by the Center for Personalized Education for Professionals ("CPEP"); or
 - (2) successfully passing the Federation of State Medical Boards ("FSMB") Special Purpose Examination ("SPEX").
6. On or about February 22, 2023, Dr. Halvorson submitted a written request for the Board to review his application in light of the clinical competence requirement of DP #38.
7. On March 14, 2023, DP #38, through counsel, filed a Response in Opposition to Application for License to Practice Medicine and Surgery ("Response in Opposition").
8. In opposing Dr. Halvorson's reinstatement application DP #38 stated:
 - (1) DP #38 does not outright oppose Dr. Halvorson's reinstatement application nor seek any disciplinary action against him.
 - (2) Dr. Halvorson has not practiced clinically for over 26 years.
 - (3) Dr. Halvorson has not presented any proof of continuing medical education ("CME").
 - (4) After careful consideration of Dr. Halvorson's reinstatement application and all available evidence, DP #38 directs Dr. Halvorson to provide proof of present clinical competence (CPEP or SPEX) prior to further consideration of his licensure.
9. Subsequent to the filing of the Response in Opposition, Dr. Halvorson filed transcripts documenting completion of 43.5 credits of CME since June 7, 2021. At least two of these credits appear to qualify for Category III CME.
10. In addition to the above CME credits, Dr. Halvorson submitted transcripts for CME well in excess of 50 credits completed prior to June 7, 2021.

CONCLUSIONS OF LAW

I. **Applicable Law**

Mission of the Board

Recognizing that the practice of the healing arts is a privilege granted by legislative authority and is not a natural right of individuals, it is deemed necessary as a matter of policy in the interests of public health, safety and welfare, to provide laws and provisions covering the granting of that privilege and its subsequent use, control and regulation to the end that the **public shall be properly protected** against unprofessional, improper, unauthorized and unqualified practice of the healing arts and from unprofessional conduct by persons licensed to practice under this act.

K.S.A. 65-2801. (emphasis added).

Exempt License Definition

K.S.A. 65-2809(f) lists the characteristics of an exempt license as follows:

- (1) Not regularly engaged in the practice of the healing arts in Kansas and does not hold oneself out to the public as being professionally engaged in such practice.
- (2) Entitled to all privileges attendant to the branch of the healing arts for which such license is issued.
- (3) May serve as a coroner or as a paid employee of: (1) a local health department; or (2) an indigent healthcare clinic.

Exempt License - Permitted Professional Activities

K.A.R. 100-10a-1(a)(7) requires each application for an exempt license to contain a statement describing the professional activities relating to the healing arts that the applicant intends to perform if issued an exempt license.

K.A.R. 100-10a-4(a) and (b) list professional activities permitted for an exempt license as follows:

- (1) Performing administrative functions, including peer review, disability determinations, utilization review and expert opinions;
- (2) Providing direct patient care services gratuitously or providing supervision, direction, or consultation for no compensation. (May receive payment for

subsistence allowances or actual and necessary expenses incurred in providing such services);

(3) Rendering professional services as a charitable health care provider as defined in K.S.A. 75-6102;

(4) Providing services as a district coroner or deputy coroner; and

(5) Other professional activities not listed above shall be reviewed by the board on a case-by-case basis to determine eligibility for an exempt license.

Reinstatement of Canceled License

K.S.A. 65-2809(e):

Any license canceled for failure to renew may be reinstated within two years of cancellation upon recommendation of the board and upon payment of the renewal fees then due and upon proof of compliance with the continuing educational requirements established by the board by rules and regulations. Any person who has not been in the active practice of the branch of the healing arts for which reinstatement is sought or who has not been engaged in a formal educational program during the two years preceding the application for reinstatement may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

K.A.R. 100-15-5(b) lists the mandatory continuing education requirements to reinstate a canceled license:

Each person who applies for conversion of an inactive or exempt license to a regular license or for reinstatement of a cancelled license and whose license has been inactive, exempt, or cancelled for a period of less than the two-year period immediately preceding the application for conversion shall certify completion of at least 50 credits of continuing education, of which at least one credit shall be in category III, at least 20 credits shall be in category I, and the remaining credits shall be in category II.

II. Conclusions of Law

The Board finds that Dr. Halvorson's license is cancelled failure to renew, and he is seeking reinstatement within two years of cancellation. *See* K.S.A. 65-2809(e). The Board also finds that Dr. Halvorson has not been in clinical practice since December of 1996 and has not been in the

active practice of the branch of the healing arts for which reinstatement is sought (medicine and surgery) during the two years preceding the application for reinstatement. K.S.A. 65-2809(e).

The Board finds that Dr. Halvorson must complete additional testing, training, or education by successfully completing the CPEP Re-entry to Clinical Practice Program to establish his present ability to practice with reasonable skill and safety as required by K.S.A. 65-2809(e).

ORDER

CPEP Reentry to Clinical Practice Program

IT IS THEREFORE ORDERED that Dr. Halvorson complete the CPEP Reentry to Clinical Practice Program, or the substantial equivalent as approved by the Board, to establish his present ability to practice with reasonable skill and safety, prior to further consideration of his application for reinstatement of an exempt license. The Board's mission is to protect the public, and to that end, despite the statutory and regulatory limitations on the scope of practice for exempt licensees, under an exempt license Dr. Halvorson could conceivably provide healthcare to the public as a coroner or at a local healthcare department. Considering this situation, it is not unreasonable for the Board to require proof of clinical competence prior to further consideration of licensure.

Dr. Halvorson may propose to complete an alternate re-entry course substantially equivalent to the CPEP Reentry to Clinical Practice Program but must receive the written approval of the Board prior to enrolling.

Miscellaneous Provisions

All costs associated with complying with this Final Order shall be Dr. Halvorson's.

Proof of successful completion and all documentation and correspondence associated with this Final Order's requirements shall be submitted by to:

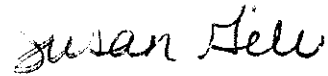
Kansas State Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level - Suite A
Topeka, Kansas 66612
KSBHA_compliancecoordinator@ks.gov

Following Dr. Halvorson's successful completion of the re-entry program requirement stated above, his application for reinstatement of an exempt license will continue to be processed until all requirements have been addressed and the application is deemed complete.

As required by K.S.A. 65-2809(e) the Board will then review Dr. Halvorson's completed application file to determine whether to recommend or not recommend reinstatement of his exempt license.

IT IS SO ORDERED.

KANSAS STATE BOARD OF HEALING ARTS



Susan Gile, 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. Pursuant to 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, Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing **FINAL ORDER ON APPLICATION FOR REINSTATEMENT OF EXEMPT LICENSE** was served this 12th day of May 2023, by depositing the same in the United States Mail, first-class, postage prepaid, and an email courtesy copy, addressed to:

Howard C. Halvorson, M.D.

CONFIDENTIAL

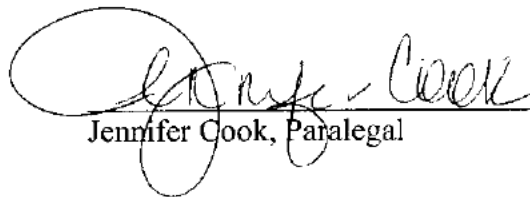
Applicant

And a copy was hand delivered to:

James G. McSweyn, Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level – Suite A
Topeka, KS 66612
James.McSweyn@ks.gov

and the original was filed with:

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



Jennifer Cook, Paralegal