

JAN 05 2023

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

KS State Board of Healing Arts

In the Matter of)
)
KIRK D. POTTER, D.O.)
License No. 05-33528)
_____)

Docket No. 17-HA00024

ORDER TERMINATING CONFIDENTIAL

On December 9, 2022, this matter came before the Kansas State Board of Healing Arts (“Board”) for a Conference Hearing on the request of Kirk D. Potter, D.O. (“Licensee” or “Dr. Potter”) for termination of the CONFIDENTIAL requirement contained in the Final Order Terminating Suspension, Modifying Consent Order and Reinstating Licensure filed January 10, 2018. Licensee appeared in person and through counsel, Shannon Holmberg of Gibson Watson Marino LLC. Matthew Gaus, Deputy Litigation Counsel appeared on behalf of the Disciplinary Panel (“Panel”).

Under the authority granted to the Board by K.S.A. 65-2801 *et seq.*, and in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*, the Board hereby enters this Order in the above-captioned matter. After reviewing the agency record, hearing the statements and arguments of the parties, receiving evidence, and being otherwise advised in the premises, the Board makes the following findings, conclusions, and order:

FACTS

1. On October 13, 2015, Dr. Potter entered into a Consent Order in KSBHA Docket No. 16-HA00024 to resolve the following allegations: (1) Dr. Potter engaged in unprofessional conduct likely to harm the public; and (2) Dr. Potter was CONFIDENTIAL
2. The requirements of the Consent Order included, but were not limited to the following:

a. **CONFIDENTIAL**

b.

c.

d.

3. **CONFIDENTIAL**

4. Further, on November 4, 2016, the Board filed a Motion for Ex Parte Emergency Order of Suspension and for Emergency Proceedings. On the same date, the Board emergently and temporarily suspended Dr. Potter's license to practice medicine and surgery, finding that Dr. Potter **CONFIDENTIAL** and the Board is unable to assure the public Dr. Potter is safe to practice.
5. On February 8, 2017, an evidentiary hearing was held to determine whether Dr. Potter's emergency suspension should remain in effect.
6. On March 6, 2017, the Board lifted its emergency suspension of Dr. Potter. The Board articulated restrictions under which the emergency order may be lifted, including specific amendments **CONFIDENTIAL**.
7. A Conference Hearing on the Board's Petition for discipline was held on April 14, 2017. At this hearing, Dr. Potter admitted to **CONFIDENTIAL** and apologized to the Board.
8. On April 18, 2017, the Board issued a Final Order Suspending License and ordered the following:
 - a. Dr. Potter's license to practice medicine and surgery shall be suspended for a period of six months.

b. **CONFIDENTIAL**

c. Upon any request by Dr. Potter to terminate his suspension, Dr. Potter shall have the burden to demonstrate sufficient evidence of **CONFIDENTIAL** to a degree where he is able to practice with reasonable skill and safety and warrant public trust as a licensed physician. Such evidence shall include: (a) **CONFIDENTIAL** **CONFIDENTIAL**; and (b) Evidence of compliance with the requirements of his 2015 Consent Order to include results of **CONFIDENTIAL**. The Board may consider the factors of *Vakas v. Kansas State Bd. of Healing Arts*, 23 Kan. App. 2d 889, 941 P.2d 381 (1997).

9. On September 11, 2017, Dr. Potter filed a Motion to Terminate Suspension and Reinstate License. In support, Dr. Potter submitted evidence, **CONFIDENTIAL** **CONFIDENTIAL**

10. On November 13, 2017, the Board filed a Petitioner's Response to Licensee's Motion to Terminate Suspension and Reinstate License. Petitioner for the Board did not oppose Dr. Potter's motion.

11. On January 10, 2018, the Board issued a Final Order, finding that Dr. Potter had met his burden to demonstrate sufficient evidence of rehabilitation to a degree where he is able to practice with reasonable skill and safety and warrant the public trust as a licensed physician under *Vakas v. Kansas Bd. Of Healing Arts*. Dr. Potter's license was reinstated subject to his compliance with all terms **CONFIDENTIAL**, **CONFIDENTIAL**, **CONFIDENTIAL**, **CONFIDENTIAL**

12. **CONFIDENTIAL**

13.

CONFIDENTIAL

14. On November 22, 2022, the Panel filed a Response to Dr. Potter's Request for Termination of Final Order. The Panel stated:

a. **CONFIDENTIAL**

b. The Panel has no objections to Dr. Potter's request to terminate **CONFIDENTIAL**.

15. **CONFIDENTIAL**

CONCLUSION

The Board finds that Licensee has satisfactorily met all requirements of the Final Order Terminating Suspension, Modifying Consent Order and Reinstating Licensure and concludes that termination of the **CONFIDENTIAL** requirement is warranted under the circumstances.

IT IS THEREFORE ORDERED, that the **CONFIDENTIAL** requirements imposed by the Final Order Terminating Suspension, Modifying Consent Order and Reinstating Licensure filed on January 10, 2018, are **TERMINATED**, effective December 9, 2022, and Licensee has no further obligations or conditions for compliance in this matter.

IT IS SO ORDERED.

KANSAS STATE BOARD OF HEALING ARTS

Susan Gile

Susan Gile, Acting Executive Director
Kansas State Board of Healing Arts

NOTICE OF 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, Licensee 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, at 800 SW Jackson, Lower Level – Suite A, Topeka, Kansas, 66612.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Order Terminating **CONFIDENTIAL** was served this 5th day of January 2023 by depositing the same in the United States Mail, first-class, postage prepaid, and via email, addressed to:

Kirk D. Potter, DO
CONFIDENTIAL

Licensee

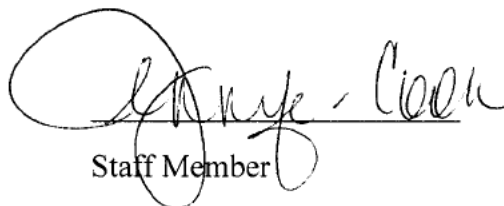
Shannon Holmberg
Gibson Watson Marino LLC
301 N. Main Suite 1300
Wichita, KS 67202
shannon@gwmks.com
Attorney for Licensee

And a copy was hand-delivered to:

Matthew Gaus, Deputy Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level – Suite A
Topeka, Kansas 66612

Compliance Coordinator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level – Suite A
Topeka, Kansas 66612

And the original was filed with the office of the Executive Director.


Staff Member