

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

In the Matter of)	
)	
Hampton Anderson III, D.O.)	Docket No. 11-HA00010
Kansas License No. 05-24017)	
_____)	

FINAL ORDER RETROACTIVELY REVOKING LICENSURE

NOW on this 19th day of October 2012, comes before the Kansas State Board of Healing Arts (“Board”) the Petition requesting disciplinary action against Hampton Anderson III, D.O.’s (“Licensee”) license to practice osteopathic medicine and surgery in the State of Kansas. Licensee appears in person and by and through his attorney, Michael E. Francis. Reese H. Hays, Litigation Counsel, appears on behalf of Petitioner.

Pursuant to 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 Final Order in the above-captioned matter. After reviewing the agency record, hearing the statements and arguments of the parties, and being otherwise duly advised in the premises, the Board makes the following findings, conclusions and orders:

I. Findings

1. Licensee is licensed to engage in the practice of osteopathic medicine and surgery in the State of Kansas, having been issued License No. 05-24017 on approximately April 11, 1992.
2. On or about August 4, 2010, a Petition was filed in this matter alleging three counts of violation of the Kansas Healing Arts Act, including unprofessional conduct related to

an inappropriate sexual relationship with a patient, improper prescribing of medications for an individual that was not a patient, and failing to maintain professional liability insurance.

3. On August 4, 2010, Petitioner filed a Motion for Ex Parte Emergency Order of Temporary Suspension of Licensee's license to practice osteopathic medicine and surgery in the State of Kansas.

4. An Ex Parte Emergency Order of Temporary Suspension was issued by the duly appointed Presiding Officer on August 6, 2010, temporarily suspending Licensee's license based on the Presiding Officer's finding that Licensee's continuation in practice constituted an imminent danger to the public health, safety, or welfare.

5. A hearing on the emergency temporary suspension of Licensee's license was noticed for August 27, 2010.

6. An Agreed Temporary Order of Suspension was subsequently filed with the Board on August 26, 2010, based on Licensee's agreement to a temporary suspension of his license to practice osteopathic medicine and surgery in the State of Kansas **Confidential**

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10. At the February 2012 regularly scheduled meeting of the Board, the Board voted to deny a proposed Consent Order for limitations on Licensee's license that was offered by the parties for Board approval.

11. Subsequently, a conference hearing was noticed for and held on October 19, 2012, on the Petition.

12. At the conference hearing, Licensee admitted all of the allegations set forth in the Petition and acknowledged that the allegations were supported by evidence.

13. Licensee admitted and accepted Petitioner's exhibits attached to the August 2010 Ex Parte Emergency Order of Temporary Suspension.

14. Licensee admitted and accepted that the allegations and evidence provided statutory grounds for discipline as set forth in the Petition.

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17. Licensee offered three exhibits in support of his position which were admitted into evidence. Exhibit 1 represented letter(s) from former employers and friends from his church. Exhibit 2 represented Confidential Exhibit 3 represented documentation of continuing medical education.

18. The Board accepted the offered evidence, testimony, and arguments of the parties.

II. Applicable Law

- a. K.S.A. 77-501 *et seq.* – Kansas Administrative Procedure Act
- b. K.S.A. 65-2801 *et seq.* – Kansas Healing Arts Act

III. Policy Statement

The public policy of regulating the practice of healing arts in the State of Kansas is set forth in K.S.A. 65-2801:

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.

IV. Conclusions

19. Based upon the evidence admitted, the testimony and the arguments of the parties, the agency record and the applicable law, the Board concludes that the allegations contained in the Petition are undisputed.

20. The Board concludes that Licensee has violated the following provisions of the Kansas Healing Arts Act:

- a. K.S.A. 65-2836(b), in that Licensee has committed acts of unprofessional conduct, as further defined by K.S.A. 65-2837(b)(12), by committing conduct likely to deceive, defraud or harm the public;
- b. K.S.A. 65-2836(b), in that Licensee has committed acts of unprofessional conduct, as further defined by K.S.A. 65-2837(b)(16), by committing acts of sexual abuse, misconduct or other improper sexual contact which exploits the licensee-patient relationship, with a patient;

- c. K.S.A. 65-2836(b), in that Licensee has committed acts of unprofessional conduct, as further defined by K.S.A. 65-2837(b)(23), by prescribing, dispensing administering or distributing a prescription drug or substance, including a controlled substance, in an improper or inappropriate manner, or for other than a valid medical purpose, or not in the course of Licensee's professional practice;
- d. K.S.A. 65-2836(b), in that Licensee has committed acts of unprofessional conduct, as further defined by K.S.A. 65-2837(b)(25), by failing to keep written medical records which accurately describe the services rendered to the patient;
- e. K.S.A. 65-2836(f), in that Licensee has willfully or repeatedly violated the Healing Arts Act;
- f. **Confidential**
- g. K.S.A. 65-2836(k), in that Licensee has violated a regulation promulgated by the Board, specifically K.A.R. 100-24-1, by failing to maintain an adequate record for each patient for whom Licensee performed a professional service;
- h. K.S.A. 65-2836(s), in that Licensee has had sanctions or disciplinary action taken against him by a health care facility for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under the K.S.A. 65-2836; and

- i. K.S.A. 65-2836(y), in that Licensee failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a, and amendments thereto.

21. The Board has the duty and responsibility to consider the weight of its findings relative to ensuring that its public policy is adhered to by protecting the public and the public's confidence in the professions regulated.

22. The Board has the duty and responsibility to consider aggravating and mitigating circumstances offered by the parties in determining the appropriate disciplinary action, and has done so in this matter.

23. The Board concludes that Licensee's acts and conduct are particularly egregious and warrant revocation of licensure as contemplated in the agency's "Guidelines for the Imposition of Disciplinary Actions." However, Licensee's efforts towards rehabilitation support making the revocation retroactive so as to allow Licensee an earlier opportunity to apply for reinstatement of his license.

24. Based upon the evidence provided, testimony and arguments of the parties, agency record and the applicable law, the Board concludes that there are statutory grounds to revoke Licensee's license. The revocation shall be retroactively effective to August 6, 2010, the date of the Emergency Ex Parte Suspension.

25. The Board concludes that pursuant to K.S.A. 65-2844, Licensee shall not be eligible to apply for reinstatement for three (3) years from the effective date of revocation.

26. The Board concludes that, in determining whether Licensee is sufficiently rehabilitated to warrant reinstatement, the Board may consider the eight (8) factors established in *Vakas v. The Kansas State Board of Healing Arts*, 248 Kan. 589, 808 P.2d 1355 (1991). Those factors are generally summarized as:

- a. the present moral fitness of the applicant;
- b. the demonstrated consciousness of the wrongful conduct and disrepute which the conduct has brought the profession;
- c. the extent of applicant's rehabilitation;
- d. the seriousness of the original misconduct;
- e. conduct subsequent to discipline;
- f. the time which has elapsed since the original discipline;
- g. the applicant's character, maturity, and experience at the time of revocation; and
- h. the applicant's present competence in medical skills.

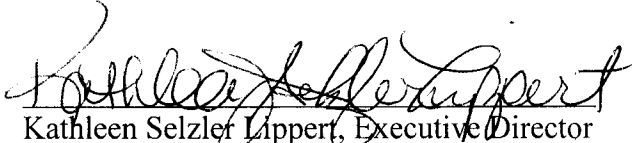
27. The Board concludes that when seeking reinstatement under the provisions of K.S.A. 65-2844 and *Vakas*, an applicant has a much greater burden than an individual seeking initial licensure.

IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS that Licensee's license No. 05-24017 to practice osteopathic medicine and surgery in the State of Kansas is hereby REVOKED. Such revocation is retroactively effective to August 6, 2010, the date of the Emergency Ex Parte Suspension.

IT IS FURTHER ORDERED that pursuant to K.S.A. 65-2844, Licensee shall not be eligible to apply for reinstatement for three (3) years from the effective date of the Revocation.

IT IS FURTHER ORDERED that a protective order is hereby entered to prevent the disclosure of any information and documents subject to the privilege or confidentiality requirements **Confidential**

IT IS SO ORDERED THIS 11th **DAY OF NOVEMBER, 2012, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**


Kathleen Selzler Lippert, 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 Kathleen Selzler Lippert, Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

**NOTICE REGARDING UNLAWFUL
CORPORATE PRACTICE OF MEDICINE**

PLEASE TAKE NOTICE that your license to practice osteopathic medicine and surgery in the State of Kansas has been revoked. As such, you may no longer lawfully hold an ownership interest in any professional business entity that provides medical services in the State of Kansas.

NOTICE REGARDING DUTY TO MAINTAIN PATIENT RECORDS

PLEASE TAKE NOTICE that pursuant to K.A.R. 100-24-2, you are required to maintain each of your patients' records for a minimum of 10 years from the last date of service. Because you cannot actively practice, K.A.R. 100-24-3 requires that you notify the Board on or before December 15, 2012, of the location of your patients' records, the name of the designated agent to maintain the records, along with the telephone number and mailing address of the agent. If you will be maintaining the records yourself, you shall give your contact information instead. This information will be provided to former patients who contact the Board to inquire as to the location of their records. You should also be aware that if you are unable or refuse to allow patients access to their records, the Board may petition the court for appointment of a custodian of the records pursuant to K.S.A. 65-28,128.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing **FINAL ORDER RETROACTIVELY REVOKING LICENSURE** was served this 16th day of November, 2012, by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Hampton Anderson, III, D.O.
100 Liberty Circle
McAlester, OK 74501

Michael E. Francis
434 SW Topeka, Blvd.
Topeka, KS 666603
Attorney for Licensee

And a copy was hand-delivered to:

Reese H. Hays, Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Katy Lenahan, Licensing Administrator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Melissa Massey, 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.

