

EFFECTIVE AS A FINAL ORDER

DATE: 7.9.2019

FILED

Attila

JUN 18 2019

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

KS State Board of Healing Arts

In the Matter of)
)
Harold L. Berkheimer, M.D.)
Kansas License No. 08-00346)

Docket No. 19-HA00101

SUMMARY ORDER

NOW ON THIS 18th day of June, 2019, this matter comes before Kathleen Selzler Lippert, Executive Director, of the Kansas State Board of Healing Arts ("Board"), in summary proceedings under K.S.A. 77-537.

Pursuant to K.S.A 77-537 and K.S.A. 77-542, this Summary Order **shall become effective as a Final Order, without further notice, if: (1) no written request for a hearing is made within fifteen (15) days of service of this Summary Order; and (2) Licensee does not provide evidence to the Board within fifteen (15) days of service of this Summary Order showing he meets the employment requirements for an Institutional license pursuant to K.S.A. 65-2895.**

Upon review of the agency record and being duly advised in the premises, the following findings of fact, conclusions of law, and orders are made for and on behalf of the Board:

FINDINGS OF FACT

1. Harold L. Berkheimer, M.D.'s ("Licensee") last known mailing address to the Board is:

2. Licensee was issued Institutional license No. 08-00346 on June 25, 2018.
3. Licensee's Institutional license in Kansas is currently Active.

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4. On May 20, 2019, Board staff was informed Licensee was no longer a physician at the Osawatomie State Hospital, effective Saturday, May 18, 2019.
5. Therefore, Dr. Gustilo was no longer certifying Licensee's employment at that facility for institutional licensure.
6. Considering the employment requirements of K.S.A. 65-2895, Board staff sought follow up information from Licensee.
7. On June 3, 2019, Board staff sent Licensee an email attaching a Certificate of Employment for [an] Institutional License Form, requesting Licensee complete it if employed, and return it by June 6, 2019.
8. To date, Licensee has not provided any information indicating that he is engaged in qualifying employment.

APPLICABLE LAW

9. K.S.A. 65-2895(a) authorizes the Board to issue an institutional license to anyone who meets the following qualifications:
 - (1) Is a graduate of an accredited school of medicine or osteopathic medicine or a school which the graduates have been licensed in another state or states that have standards similar to Kansas;
 - (2) has completed at least two years in a postgraduate training program in the United States approved by the board; and
 - (3) who is employed as provided in this section.
10. K.S.A. 65-2895(c), in pertinent part, provides the practice privileges of institutional license holders are restricted and only valid during the period in which:
 - (1) **The holder is employed by any institution within the Kansas department for aging and disability services, employed by any**

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institution within the department of corrections or employed pursuant to a contract entered into by the Kansas department for aging and disability services or the department of corrections with a third party, and only within the institution to which the holder is assigned.

(Emphasis added).

11. K.S.A. 65-2895(d), in relevant part, states an institutional license may be renewed if “the applicant for renewal meets the requirements under subsection (c)...”

CONCLUSIONS OF LAW

12. The Board has jurisdiction over Licensee as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

13. The Board has information that Licensee is no longer engaged in qualifying employment pursuant to K.S.A. 65-2895 as of May 18, 2019. Therefore, Licensee does not currently satisfy the employment requirements for an Institutional license in Kansas under K.S.A. 65-2895(c)(1) and therefore the license is no longer valid.

14. The use of summary proceedings in this matter is appropriate, in accordance with the provisions set forth in K.S.A. 77-537(a), in that the use of summary proceedings does not violate any provision of law and the protection of the public interest does not require the Board to give notice and opportunity to participate to persons other than Licensee.

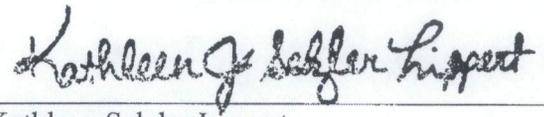
IT IS THEREFORE ORDERED, that Licensee’s Institutional license in Kansas, be administratively **CANCELLED**, for failing to meet the requirements for such license under K.S.A. 65-2895. If Licensee provides evidence showing he meets the requirements for an Institutional license prior to this Summary Order becoming a Final Order, this Summary Order shall be rescinded and vacated.

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PLEASE TAKE NOTICE that upon becoming effective as a Final Order, this document shall be deemed a public record and be reported, if appropriate, to any reporting entities authorized to receive such disclosure.

Dated this 18th day of June, 2019.

KANSAS STATE BOARD OF HEALING ARTS



Kathleen Selzler Lippert
Executive Director

FINAL ORDER NOTICE OF RIGHTS

PLEASE TAKE NOTICE that this is a Final Order. A Final Order is effective upon service. 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 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 copy of the foregoing **FINAL ORDER** was served this 9th day of July 2019 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Harold L. Berkheimer, MD

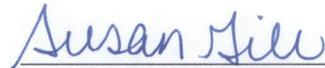
[REDACTED]
[REDACTED]
[REDACTED]

And a copy was hand-delivered to:

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

Office of the General Counsel
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.



Susan Gile, Operations Manager