

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

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SEP 08 2014
KS State Board of Healing Arts

In the Matter of)
Ethan Bickelhaupt, M.D.)
)
Kansas License No. 04-18225)
_____)

KSBHA Docket No. 10-HA00112

**FINAL ORDER TERMINATING SUSPENSION
AND DENYING MOTION FOR REVOCATION**

NOW this 8th day of August, 2014, comes on for conference hearing before the Kansas State Board of Healing Arts (Board), Petitioner’s Motion for Revocation of the medical license of Ethan Bickelhaupt, M.D. (“Licensee”). Anne Barker Hall, Associate Litigation Counsel appears on behalf of Petitioner. Licensee appears in person and through counsel, Arthur Glassman.

Pursuant to 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, K.S.A. 77-501, *et seq.*, the Board hereby enters this Final Order following a conference hearing in the above-captioned matter. After reviewing the agency record, hearing the testimony and arguments of the parties, considering the admitted exhibits, and otherwise being duly advised in the premises, the Board makes the following findings, conclusions and order:

1. Licensee was previously entitled to engage in the practice of medicine and surgery in the State of Kansas, having been issued License No. 04-18225 on approximately July 2, 1979, and having last renewed such license on July 1, 2009. Licensee’s license was cancelled on August 1, 2010, by operation of law based on his failure to renew it.

2. A Petition was filed against Licensee's license on February 23, 2010, alleging Licensee had pled guilty in U.S. District Court to one count of Distributing, Dispensing, or Possessing with Intent to Distribute or Dispense Controlled Substance by a Practitioner and one count of Acquiring or Obtaining a Controlled Substance by Misrepresentation, Fraud, Forgery, Deception, or Subterfuge, both felony offenses.

3. The conduct underlying Licensee's crimes occurred in 2006 and 2007. Licensee's crimes involved Licensee writing prescriptions for controlled substance medications to individuals who were not Licensee's patients. These individuals would then fill the prescriptions and give the controlled substance medications to Licensee for his personal consumption.

4. On February 23, 2010, the Board issued an *Ex Parte* Order of Suspension and Protective Order which emergently suspended Licensee's medical license due to his felony pleas. Following a hearing, the suspension was affirmed on April 30, 2010. Licensee's license remained suspended until it was cancelled on August 1, 2010.

5. Pursuant to K.S.A. 65-2836(c), the Board is required to revoke Licensee's license based on his felony convictions unless Licensee proves by clear and convincing evidence that he is sufficiently rehabilitated to warrant the public trust and will not pose a threat to the public in his capacity as a medical doctor. K.S.A. 65-2836(c) further requires that two-thirds of the Board members present and voting must find that Licensee has met his burden of proof.

6. On April 29, 2014, Petitioner filed Petitioner's Motion for a Conference Hearing and for Revocation based on the Licensee's felony convictions and the statutory mandate for revocation in K.S.A. 65-2836(c).

7. Licensee's criminal conduct involved misuse of his medical license for an immoral purpose and personal gain.

8. At the time of Licensee committed his felony crimes, Confidential

Confidential which was a factor in his criminal conduct.

9. Even though Licensee has already been subject to a disciplinary suspension of his Kansas license for his crimes, Licensee's burden to prove rehabilitation is exceptionally high due to the egregious nature of his conduct.

10. Confidential

Confidential

11. Following Licensee's conviction, Licensee was sentenced to three years of criminal probation, which included Confidential Licensee successfully completed his probation on September 1, 2013.

12. During his criminal probation, Licensee completed his Masters in Medical Management at the University of Southern California.

13. Licensee is licensed to practice medicine and surgery in the State of Illinois. His Illinois license was previously placed on three years of probation which ended May 31, 2013. His license in Illinois was placed on a one-year suspension in July of 2014.

14. Licensee presented several affidavits as evidence in support of Licensee's rehabilitation Confidential since September 11, 2007; acceptance of responsibility for his actions; and the ability to use his past experiences to help both students and patients Confidential

15. Dr. Daniel Angres, M.D., Confidential provided an affidavit in support of Licensee. Dr. Angres' affidavit summarized Licensee's participation Confidential According to Dr. Angres, after Licensee Confidential Licensee continued to

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Confidential

Dr. Angres

stated that Licensee worked at Resurrection as a Program Specialist from 2009 to 2010, developing new supportive programs for patients. Licensee also gave medical lectures at Rush College of Medicine and other medical and pharmaceutical colleges in the Chicago area on addiction, psychiatry and chronic pain. Dr. Angres opined that Licensee is fully rehabilitated.

16. Wallace Cross, RPh, Confidential and provided an affidavit in support of Licensee. Confidential

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He described Licensee's "countless hours" of volunteer activities at Resurrection with patients and speaking to students about his past experiences.

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17. Confidential

Confidential

18. Dr. Anjali Gupta, M.D., owner of Addiction Medicine Consulting, provided an affidavit in support of Licensee. Dr. Gupta indicated that Licensee has worked with him as a psychiatric and addiction medical consultant on difficult cases for the last 2 years. Licensee also

managed the business for Dr. Gupta. Dr. Gupta indicated that Licensee will continue to work with him for the next year. Dr. Gupta stated that he has attended several lectures Licensee has presented to students and pharmacists in which Licensee used his past experience as an illustration.

19. Confidential

Confidential

20. Licensee has practiced as an addiction counselor and psychiatrist. At the conference hearing, Licensee testified that he plans to return to Kansas and continue to use his experiences to better treat his patients.

21. During the conference hearing, Licensee also admitted to the allegations underlying his convictions; took responsibility and expressed remorse for his actions and the consequences those actions had on his life, his profession, and his family. The Board finds Licensee's statements to be supported by the evidence presented. The Board concludes that Licensee's remorse is sincere and reflects a true understanding of the gravity of his past actions.

22. The Board finds it significant that Licensee not only successfully completed his criminal probation and Confidential but also engaged in a wide-range of other remedial and rehabilitative endeavors outside of those required of him during the past seven (7) years.

23. The evidence presented by Licensee presents a both a longitudinal and broad perspective Confidential from reputable and credible sources. A two-thirds majority of the Board members present and voting concludes that Licensee has sufficiently met his burden to warrant denial of Petitioner's Motion for Revocation.

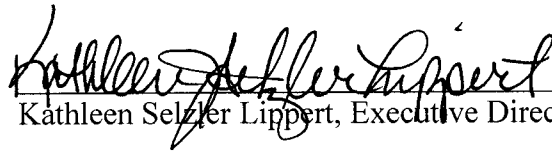
Furthermore, the Board concludes that adequate cause has been shown to terminate the suspension of Licensee's license.

24. Licensee's license is currently cancelled. Licensee has submitted an application for reinstatement of his license. At the time of the conference hearing, the application was not yet complete. Upon completion, Licensee's application for reinstatement will be separately considered by the Board. The Board may determine that limitations on Licensee's license or probationary requirements are warranted to ensure Licensee's safety to practice.

IT IS THEREFORE ORDERED that Petitioner's Motion for Revocation is hereby **DENIED**.

IT IS FURTHER ORDERED that the suspension of Licensee's license is hereby **TERMINATED**.

IT IS SO ORDERED THIS 8 DAY OF SEPTEMBER, 2014, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.


Kathleen Selzer Lippert, Executive Director

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.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this 8th day of September 2014, a true and correct copy of the above and foregoing **FINAL ORDER TERMINATING SUSPENSION AND DENYING REVOCATION** was served by depositing the same in the United States mail, postage prepaid, and addressed to the following:

Ethan Bickelhaupt, MD
Confidential
Chicago, IL 60614-5958

Arthur Glassman
Sloan, Eisenbarth, Glassman, McEntire & Jarboe, LLC
534 S. Kansas Ave. Suite 1000
Topeka, Kansas 66603

And a copy was hand-delivered to:

Anne Barker Hall, Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level – Suite A
Topeka, KS 66612

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

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