

EFFECTIVE AS A FINAL ORDER

DATE: 10/7/2019

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

FILED
SEP 16 2019 *JS*
KS State Board of Healing Arts

In the Matter of)
) KSBHA Docket No. 20- 00036
John B. Bowers, D.C.)
Kansas License No. 01-03858)
_____)

SUMMARY ORDER

NOW ON THIS 16 day of Sept., 2019, this matter comes before Kathleen Selzler Lippert, Executive Director, Kansas State Board of Healing Arts ("Board"), in summary proceedings pursuant to K.S.A 77-537.

Pursuant to K.S.A 77-537, this Summary Order shall become effective as a Final Order, without further notice, if no written request for a hearing is made within fifteen (15) days of service. Upon review of the agency record and being duly advised in the premises, the following findings of fact, conclusions of law, and order are made for and on behalf of the Board:

Findings of Fact

1. John B. Bowers, D.C. ("Licensee") was originally issued license number 01-03858 to practice chiropractic in the State of Kansas on or about January 4, 1987. Licensee's current license designation is Active, and such license was last renewed on or about November 26, 2018.
2. Licensee's last known mailing address as provided to the Board is: **CONFIDENTIAL**
CONFIDENTIAL
3. At all times relevant to the facts set forth in this Summary Order, Licensee held an Active license to practice chiropractic in Kansas.
4. On or about May 15, 2019 the Board requested via certified mail that, pursuant to an audit process, Licensee provide proof he maintained a policy of professional liability insurance

(as required by K.S.A. 40-3402) and proof that he had paid the Health Care Stabilization Fund (“HCSF”) surcharge (as required by K.S.A. 40-3404). Licensee was given a June 15, 2019 deadline to provide the required information.

5. Licensee did not respond to the May 15, 2019 letter by the June 15, 2019 deadline.

6. On or about June 14, 2019 the Board again requested via certified mail that, pursuant to an audit process, Licensee provide proof he maintained a policy of professional liability insurance (as required by K.S.A. 40-3402) and proof that he had paid the HCSF surcharge (as required by K.S.A. 40-3404). Licensee was given a June 28, 2019 deadline to provide the required information.

7. On or about June 28, 2019 Licensee contacted the Board’s Licensing department via email to request an extension because he was out of state at that time, but stated after July 9, 2019 he would “get the documents together” and email them to the Board.

8. On July 1, 2019 Licensee was granted an extension until July 15, 2019 to provide the required information.

9. Licensee did not provide the requested information by July 15, 2019.

10. On or about July 31, 2019, Board staff confirmed with the HCSF that Licensee was not in compliance with the surcharge statute.

11. On or about August 1, 2019, Board staff contacted Licensee, again requested Licensee provide proof that he maintained a policy of professional liability insurance (as required by K.S.A. 40-3402) and proof that he had paid the HCSF surcharge (as required by K.S.A. 40-3404). He was given a final deadline of August 15, 2019, at which point he would be subject to discipline up to and including suspension.

12. On or about August 15, 2019 Licensee left a voice message with Board staff stating that he was unable to meet the deadline, and that he had been trying to resolve the issue of HCSF compliance for approximately six weeks, but that he was having trouble finding liability insurance. This was the first evidence the Board had that not only was Licensee non-compliant with HCSF requirements, but that he did not have any professional liability insurance at all.

13. On August 16, 2019, Board staff informed Licensee via email that the Board had been requesting the required information for over three months; that practicing at all without compliance was a violation of the Kansas Healing Arts Act; that he had a deadline of August 23, 2019 at 12:00 p.m. to provide the information; and that this extension would have no effect on possible discipline for his earlier non-compliance.

14. Licensee did not respond to the Board until after this deadline, and when he did, he sent a letter showing that he had found liability insurance, but not that he had become HCSF compliant.

15. On or about August 26, 2019 Board staff confirmed with Licensee he had been practicing with no professional liability insurance whatsoever since at least July 2019.

16. As of August 28, 2019, Board staff confirmed with HCSF that Licensee was still non-compliant with the surcharge statute.

17. Licensee has twice been disciplined by this Board:

a. In 2013, Applicant was the subject of a Board investigation, during which he was subpoenaed. Licensee ignored the subpoena and refused to provide the Board with the subpoenaed records for over a year. On April 21, 2014, the Board issued a Summary Order publicly censuring Applicant and indefinitely suspending

him until such time as he complied with the subpoena. He remained suspended until May 22, 2014.

b. While suspended, Licensee continued to practice. On July 27, 2015 the Board approved a Summary Order which suspended Licensee for 45 days and fined him \$5,000.

Applicable Law

18. K.S.A. 65-2809(c) of the Kansas Healing Arts Act states in pertinent part:

The board . . . shall require an active licensee to submit to the board evidence satisfactory to the board that the licensee is maintaining a policy of professional liability insurance as required by K.S.A. 40-3402, and amendments thereto, and has paid the premium surcharges as required by K.S.A. 40-3404, and amendments thereto.

19. K.S.A. 65-2836(y) allows a Licensee's license to be revoked, suspended or limited, publicly censured, or placed under probationary conditions where a "licensee has failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a, and amendments thereto."

20. K.S.A. 65-2836(z) allows a Licensee's license to be revoked, suspended or limited, publicly censured, or placed under probationary conditions where a "licensee has failed to pay the [HCSF] premium surcharges as required by K.S.A. 40-3404, and amendments thereto."

21. K.S.A. 65-2863a of the Kansas Healing Arts Act states in pertinent part "the state board of healing arts . . . may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for violation of the Kansas healing arts act in an amount not to exceed \$5,000 for the first violation"

Conclusions of Law

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

23. The Board finds Licensee violated 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.

24. The Board finds Licensee violated K.S.A. 65-2836(z), in that Licensee failed to pay the [HCSF] premium surcharges as required by K.S.A. 40-3404, and amendments thereto.

25. Based on the facts and circumstances set forth herein, it appears that 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, John B. Bowers, D.C.

IT IS, THEREFORE, ORDERED that Licensee is **INDEFINITELY SUSPENDED** for Licensee's violations of the Kansas Healing Arts Act. Licensee shall be indefinitely suspended until such time as he provides to the Board proof of both professional liability insurance and compliance with HCSF requirements.

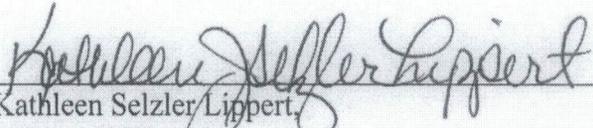
IT IS FURTHER ORDERED that the licensee is hereby assessed a **CIVIL FINE** in the amount of \$500.00 for violation of the Kansas Healing Arts Act. Such fine shall be paid to the "Kansas State Board of Healing Arts", in full, on or before October 15, 2019. All monetary payments, which shall be in the form of check or money order, relating to this Summary Order shall be mailed to the Board certified and addressed to:

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

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

Dated this 16 day of Sept, 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 7th day of Oct, 2019 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

John B. Bowers, D.C.
CONFIDENTIAL

Licensee

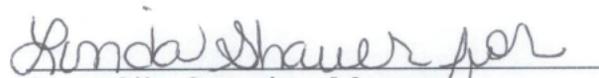
And a copy was hand-delivered to:

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

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