

EFFECTIVE AS A FINAL ORDER

DATE: 12/28/2020

FILED

OCT 20 2020 *MD*

KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS OF THE STATE OF KANSAS

In the Matter of)

Steven Busby, O.T.A.)

Kansas License No. 18-00871)

KSBHA Docket No. 21-HA 00025

SUMMARY ORDER

NOW ON THIS 20th day of October, 2020, this matter comes before Tucker Poling, Acting Executive Director, Kansas State Board of Healing Arts ("Board"), in summary proceedings pursuant to K.S.A 77-537. Pursuant to K.S.A 77-542, this Summary Order shall become effective as a Final Order, without further notice, if no written request for 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. On or about August 24, 2012, Steven Busby, O.T.A. ("Licensee") was granted a license to practice as a O.T.A. in Kansas. Licensee last renewed his occupational therapist assistant license on February 28, 2019 and his current status is Active.

2. Licensee's last known mailing address to the Board is

CONFIDENTIAL

CONFIDENTIAL

Licensee's e-mail address is

CONFIDENTIAL

3. During all times relevant to the facts set forth in this Summary Order, Licensee has held an Active license to practice as an occupational therapist assistant in Kansas.

4. The facts supporting this Summary Order are as follows:

Summary Order
Steven Busby, O.T.A.

- a. On or around October 9, 2019 the Board received **CONFIDENTIAL** from Riverbend Post-Acute Rehabilitation facility alleging that Licensee submitted false billing and treatment records for a patient he did not see or treat.
- b. As a result of **CONFIDENTIAL**, KSBHA **CONFIDENTIAL** was initiated.
- c. On November 4, 2019, a Board Investigator contacted Licensee via mail alerting him **CONFIDENTIAL** and requesting that he provide a complete written narrative statement concerning the **CONFIDENTIAL** **CONFIDENTIAL**. Licensee was given until November 26, 2019, to provide a response to the **CONFIDENTIAL** (EXHIBIT 1 – November 4, 2019 Initial Contact Letter).
- d. On December 2, 2019, the Board Investigator sent a follow up letter to Licensee stating that the November 4, 2019, letter was returned “Return to Sender – Unclaimed – Unable to Forward.” Licensee’s deadline was extended to December 16, 2019 (EXHIBIT 2 – December 2, 2019 Second Contact Letter).
- e. On March 2, 2020, the Board Investigator contacted Licensee via e-mail and again reiterated the Board’s request for a response and cooperation with **CONFIDENTIAL** (EXHIBIT 3 – March 2, 2020 Third Contact Letter).

- f. As a result of Licensee's failure to respond to the Board's multiple attempts at contact, the Board has been unable to complete its mission to **CONFIDENTIAL** protect the public.

Applicable Law

5. Under K.S.A. 65-5410(a)(2), the board may suspend, revoke or limit a license or the licensee may be publicly or privately censured where the licensee has been guilty of unprofessional conduct.

6. K.A.R. 100-54-5(g) defines unprofessional conduct as "failing to furnish the board, its investigators, or its representatives any information legally requested by the board".

7. Licensee has failed to respond to multiple requests for information regarding KSBHA **CONFIDENTIAL**

Conclusions of Law

8. The Board finds Licensee violated K.S.A. 65-5410(a)(2) and K.A.R. 100-54-5(g) by engaging in unprofessional conduct when he failed to respond to the Board's Notice of **CONFIDENTIAL** letters and to its investigator's e-mail.

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

10. Based on the facts and circumstances set forth herein, 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 person other than Licensee.

IT IS, THEREFORE, ORDERED that Licensee's license is **SUSPENDED** for violating K.S.A. 65-5410(a)(2) and K.A.R. 100-54-5(g) until such time as he contacts the Board's investigator and provides the information required in the form of a written response to the

CONFIDENTIAL

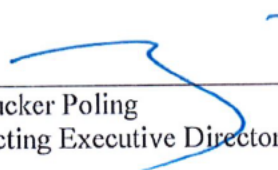
IT IS FURTHER ORDERED that all correspondence or communication between Licensee and the Board relating to the Summary Order shall be by certified mail addressed to:

Kansas State Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level-Suite A,
Topeka, Kansas 66612
KSBHA_ComplianceCoordinator@ks.gov

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 20th day of October, 2020.

KANSAS STATE BOARD OF HEALING ARTS



Tucker Poling
Acting Executive Director

Summary Order
Steven Busby, O.T.A.

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 Tucker L. Poling, Acting 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 INDEFINITELY SUSPENDING LICENSE** was served this 28th day of December 2020, by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Steven Busby O.T.A.
CONFIDENTIAL

Licensee

And a copy was hand-delivered to:

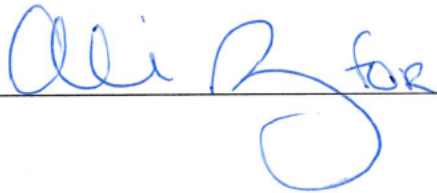
John Kitchens, Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Compliance Coordinator
800 SW Jackson, Lower Level-Suite A,
Topeka, Kansas 66612
KSBHA _ ComplianceCoordinator@ks.gov

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.



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



phone: 785-296-7413
fax: 785-368-7103
Email: KSBHA_healingarts@ks.gov
www.ksbha.org

Tucker Poling, Interim Executive Director

Laura Kelly, Governor

November 4, 2019

Steven Busby, OTA
CONFIDENTIAL

RE:

CONFIDENTIAL

Dear Mr. Busby:

This is to inform you that a complaint has been filed with the Kansas State Board of Healing Arts ("Board") pursuant to the provisions of the Healing Arts Act. A copy of the complaint filed against you or a summary of the complaint is enclosed. Also included is a "General Outline of the Investigative Process" for your information.

The Board is required to investigate complaints that allege a violation of the Occupational Therapy Practice Act. This investigation has been opened against your license to determine if there is any validity to the complaint. To facilitate the investigation, you are requested to provide a complete written narrative statement concerning the specific allegation of fraudulent billing of patient services not rendered. In your response to the Board, please provide all information that is relevant to the standard of care and/or other allegations in the complaint including any patient records in your possession for the patient.

Your response and documentation will assist the Board in reviewing the issues raised in the complaint and must be received by the Board no later than November 26, 2019. To ensure timely processing, please remit all responses to my attention. Please be advised that by statute, it is grounds for disciplinary action to fail to furnish the Board any information legally requested.

If you have any questions, please contact me at 785-296-6396 or by email maryann.frevert@ks.gov. Thank you for your cooperation.

Sincerely,

Mary Ann Frevert
Special Investigator

EXHIBIT

1

BOARD MEMBERS: STEVEN J. GOULD, DC, PRESIDENT, CHENEY • JOHN F. SETTICH, Ph.D., PUBLIC MEMBER, VICE PRESIDENT, ATCHISON • MARK BALDERSTON, DC, SHAWNEE
R. JERRY DEGRADO, DC, WICHITA • ROBIN D. DURRETT, DO, GREAT BEND • THOMAS ESTEP, MD, WICHITA • ANNE HODGDON, PUBLIC MEMBER, LENEXA
JOEL R. HUTCHINS, MD, HOLTON • STEVE KELLY, PUBLIC MEMBER, NEWTON • DAVID LAHA, DPM, OVERLAND PARK • DOUGLAS J. MILFELD, MD, WICHITA
GAROLD O. MINNS, MD, BEL AIRE • KIMBERLY J. TEMPLETON, MD, LEAWOOD • RONALD M. VARNER, DO, EL DORADO

Kansas State Board of Healing Arts

General Outline of the Investigative Process

In an effort to provide a basic understanding of the investigative process and timelines, the Board has created this brief outline and description of the steps and different routes of an investigation against a licensee of the Board.

If you have any questions at any time regarding an investigation, please feel free to contact either the investigator assigned to your case or the Chief Investigator. If you are represented by an attorney during this process, your attorney may contact the investigator assigned to your case on your behalf, or the Chief Investigator.

Once a complaint is received, Disciplinary Counsel reviews the complaint and makes an initial determination: the complaint must pertain to the practice of the healing arts, and must allege facts constituting a violation of the applicable Practice Act. These two requirements are necessary to open a case for investigation. Sometimes the complaint contains insufficient information and more information may be requested of the complainant.

If the allegation in the complaint demonstrates a potential violation of an applicable Practice Act, the complaint will be used to open an investigation and it will be assigned to an investigator. The licensee and the complainant will be notified by letter:

- *Licensee* – will receive a letter notifying them of the complaint and subsequent investigation, it will contain the investigator's contact information
- *Complainant* – will receive a letter notifying them that an investigation has been initiated, and it will contain their investigator's contact information

If the allegation in the complaint *does not* demonstrate a potential violation of an applicable Practice Act, the complaint will be closed with no action. The complainant will be notified by letter:

- *No violation*: this letter states that no violation was found, and the case is closed.
- The complaint does remain in the licensee's database record.

Anonymous complaints – If a true anonymous complaint is received, it will be treated as every other complaint. If a violation is found, it will be thoroughly investigated. If a complaint is received and the complainant wishes to remain anonymous, the Board will do everything it can to maintain the anonymity of the complainant. Due to the legal process involved in some cases, the Board cannot guarantee explicit anonymity to all complainants.

Board investigations are required by law to be confidential, pursuant to K.S.A. 65-2898a. Therefore, during the investigation process, there are limits to what information may be released. This includes the person making the complaint, the subject of the complaint or either of their attorney.

Initial investigation – 3 to 6 months

After a complaint is assigned for investigation, the assigned investigator will review the allegations within the complaint and determine what information and documentation to collect from the licensee, hospitals, pharmacies and any other person or entity identified as having relevant information pertaining to the

investigation. Once the investigation has been completed, it is then submitted for review by the corresponding committee, or disciplinary panel for direction. If the issue involves competency, the case may be reviewed by a panel of peers to determine whether the standard of care has been met.

Further investigation – additional 3 to 6 months

The committee will typically review the case at one of its monthly meetings during this phase of the investigation. If the review committee or disciplinary panel identify a need for further information to support a possible violation of the licensees Practice Act, it will provide the investigator direction on what additional information is needed.

Forward to the Board

Once the review committee or disciplinary panel has reviewed all the material gathered during the investigation and decides whether or not the evidence supports a violation of the licensee's Practice Act, the case is then forwarded to the Board. Up to an additional three months may be needed for the board to review all the material. If the Board determines the evidence supports a violation of the licensees Practice Act, the Board moves for disciplinary action against licensee.

In the event a case requires litigation, interested parties should contact the assigned attorney for information and updates. Cases requiring litigation will significantly increase the amount of time until a final action is determined.

Notice of Proposed Disciplinary Action

The licensee receives notification of the Board's decision outlining the specific allegations and violations summarizing their basis for disciplinary action. The Board has legal authority to revoke, suspend, or limit licenses/registrations, impose fines, reprimand, require monitoring, or additional education or other remedial measures.

7016 1370 0001 5805 3135

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

✓

For delivery information, visit our website at www.usps.com™

Steven Busby, Jr. NAME DATE 00-00-483

Certified Mail Fee \$

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy) \$

☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Steven Busby, Jr. NAME

CONFIDENTIAL

PS Form 3800, April 2015 PSN 7530-02-000-9017

See Reverse for Instructions

Postmark Here

Track Another Package +

Tracking Number: 70161370000158053135

Remove X

Your package is moving within the USPS network and is on track to be delivered to its final destination. It is currently in transit to the next facility. [Feedback](#)

In-Transit

November 29, 2019
In Transit to Next Facility

Get Updates ∨

Text & Email Updates ∨

Tracking History <

November 29, 2019
In Transit to Next Facility

Feedback

Your package is moving within the USPS network and is on track to be delivered to its final destination. It is currently in transit to the next facility.

November 25, 2019, 5:44 pm
Departed USPS Regional Facility
KANSAS CITY MO DISTRIBUTION CENTER

November 22, 2019, 4:08 pm
Unclaimed/Being Returned to Sender
SPRING HILL, KS 66083

November 12, 2019, 8:23 am
Available for Pickup
SPRING HILL, KS 66083

November 7, 2019, 9:25 am
Notice Left (No Authorized Recipient Available)
SPRING HILL, KS 66083

November 7, 2019, 7:44 am
Out for Delivery
SPRING HILL, KS 66083

November 7, 2019, 7:24 am
Arrived at Unit
SPRING HILL, KS 66083

November 5, 2019, 7:30 pm
Arrived at USPS Regional Facility
KANSAS CITY MO DISTRIBUTION CENTER

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



phone: 785-296-7413
fax: 785-368-7103
Email: KSBHA_healingarts@ks.gov
www.ksbha.org

Tucker Poling, Interim Executive Director

Laura Kelly, Governor

December 2, 2019

Steven Busby, OTA
CONFIDENTIAL

CONFIDENTIAL

RE:

Dear Mr. Busby:

This is to inform you that a complaint has been filed with the Kansas State Board of Healing Arts ("Board") pursuant to the provisions of the Healing Arts Act. I previously sent you a letter dated November 4, 2019 notifying you of the complaint. That letter was returned to the Board indicating, "Return to Sender; Unclaimed; Unable to Forward". The Board requires you to provide a correct address so that we may contact you regarding anything to do with your licensure. If you need to update your address or provide another address, please do that as soon as possible at (785) 296-0934.

I have enclosed the original letter I sent to you for your review. I have changed the due date of your response to December 16, 2019. If you have any questions, please contact me at 785-296-6396 or by email maryann.frevert@ks.gov. Thank you for your cooperation.

Sincerely,

Mary Ann Frevert
Special Investigator

EXHIBIT

2

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Frevert, Mary Ann [BOHA]

From: Frevert, Mary Ann [BOHA]
Sent: Monday, March 2, 2020 9:21 AM
To: **CONFIDENTIAL**
Subject:
Attachments: 20-00483_3135_Letter to Mr. Busby 030220.pdf

Mr. Busby,

I have sent you two letters in the mail in an attempt to reach you. As of this date, you have not responded to my letter. This matter needs your immediate attention. Please see the attached letter for reference.

Mary Ann Frevert

Special Investigator, KSBHA

Certified Medical Board Investigator

CLEAR Certified Investigator

800 SW Jackson, Lower Level-Suite A

Topeka, KS 66612

785-296-6396 (direct line) 785-296-7413 (agency line)

Fax #785-368-7103

maryann.frevert@ks.gov

www.ksbha.org



**Council on Licensure,
Enforcement & Regulation**
Promoting Regulatory Excellence

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EXHIBIT

3

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



phone: 785-296-7413
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Email: KSBHA_healingarts@ks.gov
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Tucker Poling, Interim Executive Director

Laura Kelly, Governor

March 2, 2020

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