

EFFECTIVE AS A FINAL ORDER

DATE: 4/9/19

FILED
MAR 21 2019 *BV*

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

KS State Board of Healing Arts

In the Matter of)
Dean Carter, D.P.M.)
Kansas License No. 12-00113)
_____)

KSBHA Docket No. 19-HA 00061

SUMMARY ORDER

NOW ON THIS 21st day of March 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 77-542, 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. Dean Carter, D.P.M. ("Licensee") was originally issued license number 12-00113 to practice podiatry in the State of Kansas on or about June 15, 1973. Licensee's current license designation is Active, and such license was last renewed on or about September 30, 2018.
2. Licensee's last known mailing address as provided to the Board is: 600 N. Main, South Hutchison, KS 67502.
3. On or about September 6, 2018 Licensee submitted an application for renewal of his license to practice podiatry in the State of Kansas.
4. Further, on or about September 6, 2018, Licensee certified on his renewal form that he had

completed the required fifty-four (54) continuing education credits between October 1, 2015 and September 30, 2018

5. As part of the Board's continuing education licensing audit process, Licensee was randomly selected to provide to the Board proof of completion of the continuing education credits required for his license renewal.

6. On or about December 7, 2018, Board staff sent a letter to Licensee that requested Licensee provide the continuing education documentation he relied upon when Licensee certified he completed the continuing education credits required by the Board for renewal of his license. This documentation was to be provided to the Board on or before January 7, 2019.

7. Licensee did not provide the required documentation on or before January 7, 2019.

8. On or about January 11, 2019, Board staff sent a second letter to Licensee that requested Licensee provide the continuing education documentation he relied upon when Licensee certified he completed the continuing education credits required by the Board for renewal of his license. This documentation was to be provided to the Board on or before January 28, 2019.

9. Licensee did not provide the required documentation on or before January 28, 2019.

10. On or about February 20, 2019 Board staff sent a third letter to Licensee that requested Licensee provide the continuing education documentation he relied upon when Licensee certified he completed the continuing education credits required by the Board for renewal of his license. This documentation was to be provided to the Board on or before March 6, 2019, at which time Applicant's license would be indefinitely suspended until such time as he came into compliance.

11. In communications with Board staff in late February 2019, Licensee disclosed that he had not completed any continuing education for years, the date of the last hours completed given variously as 2004 and 2009.

12. On his licensure renewals for the years 2005, 2006, 2013, 2014, 2015, 2017, 2018 Licensee certified that he was in compliance with the continuing education requirements, meaning that he misrepresented his compliance on a minimum of five occasions.

13. To date, Licensee has not provided the Board proof of successful completion of any credits of continuing education.

Applicable Law

14. K.S.A. 65-2010(a) of the Kansas Podiatry Act states in pertinent part that a Licensee “shall submit with the request for renewal . . . evidence of satisfactory completion of a continuing education course approved by the board. The board shall revoke the license of any individual who fails to submit proof of completion of such course.”

15. K.S.A. 65-2010(3) of the Kansas Podiatry Act states in pertinent part that “[e]ach licensed podiatrist shall be responsible for keeping a record of attendance for credit in compliance with the requirements of continuing education established by this section. Such record shall be submitted to the board at the time required by subsection (a).”

16. K.A.R. 100-49-8(a) states that “[e]very three years, each podiatrist shall submit, before or with the application for renewal, evidence of having completed a minimum of 54 hours of continuing education during the preceding three-year period.

17. K.S.A. 65-2006(a) of the Kansas Podiatry Act states in pertinent part that
the Board:

may revoke, suspend or limit any license or permit to practice podiatry, may deny issuance or renewal of any such license or permit, or may publicly or privately censure a licensee or permittee, if the person holding or applying for such license or permit is found by the board to:

- (1) Have committed fraud in securing the license or permit;
- (2) have engaged in unprofessional or dishonorable conduct or professional incompetency;

(6) have willfully or repeatedly violated the podiatry act, the pharmacy act or the uniform controlled substances act, or any rules and regulations adopted thereunder, or any rules and regulations of the secretary of health and environment which are relevant to the practice of podiatry;

(8) have failed to submit proof of completion of a continuing education course required pursuant to the podiatry act;

18. K.S.A. 65-2015(a) of the Kansas Podiatry Act states in pertinent part that:

The state board of healing arts, in addition to any other penalty prescribed under the podiatry act, may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for a violation of the podiatry act in an amount not to exceed \$5,000 for the first violation

Conclusions of Law

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

20. The Board finds that Licensee violated K.S.A. 65-2006(a)(1), in that Licensee committed fraud in securing a renewal license when he certified he completed at least fifty-four (54) continuing education credits for renewal of his license to practice podiatry, when in fact he had not completed any; and further that Licensee has repeatedly violated this statute over at least the past decade.

21. The Board finds that Licensee violated K.S.A. 65-2006(a)(2) in that Licensee committed unprofessional and dishonorable conduct when he failed to submit evidence of satisfactory completion of a program of continuing education to the Board, and when he misrepresented that he complied with statutory continuing education requirements he in fact had not.

22. The Board finds that Licensee violated K.S.A. 65-2006(a)(6) in that Licensee willfully and

repeatedly violated the Kansas Podiatry Act by certifying on multiple occasions he had completed at least fifty-four (54) credits of continuing education credits for renewal of his license to practice podiatry, when in fact he had not completed any continuing education credits.

23. The Board finds that Licensee violated K.S.A. 65-2006(a)(8) by failing to submit proof of completion of a continuing education course required pursuant to the podiatry act.

24. 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, Dean Carter, D.P.M.

IT IS THEREFORE ORDERED that Licensee is **INDEFINITELY SUSPENDED** for Licensee's violations of the Kansas Podiatry Act. Licensee shall be indefinitely suspended until such time as he provides to the Board proof of successful completion of the fifty-four (54) continuing education hours as required pursuant to K.S.A. 65-2010 and K.A.R. K.A.R. 100-49-8(a).

IT IS THEREFORE ORDERED, that Licensee shall complete fifty-four (54) continuing education hours for Licensee's violations of the Kansas Podiatry Act. Licensee shall submit proof of his completion of the fifty-four (54) credits to the attention of:

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

IT IS FURTHER ORDERED that the licensee is hereby assessed a **CIVIL FINE** in the amount of \$500.00 for violation of the Kansas Podiatry Act. Such fine shall be paid to the "Kansas State Board of Healing Arts", in full, on or before April 15, 2019.

25. 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 21st day of March, 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 Apr, 2019 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Dean Carter, DPM
600 N. Main
South Hutchinson, KS 67502

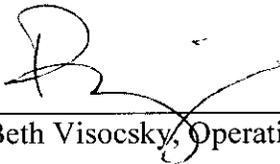
And a copy was hand-delivered to:

Susan Gering, Deputy Litigation Counsel
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.



Beth Visocsky, Operations Manager