

BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of  
ARSHAD P. CHEEMA, M.D.

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KSBHA Docket No. 22-HA00029

Kansas License No. 04-42114

**FINAL ORDER**

On April 8, 2022, this matter came before the Kansas State Board of Healing Arts ("Board") for a Conference Hearing on a Petition for discipline against the license to practice medicine and surgery of Dr. Arshad P. Cheema, M.D. ("Licensee"). Licensee appeared in person with counsel, Kelli Stevens of Forbes Law Group. The Board's disciplinary panel appeared through Matthew Gaus, Associate Litigation Counsel. Dr. Durrett, Dr. Gould, Dr. Black, and Dr. Kelly, Ph.D. were recused.

Under 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, ("KAPA"), K.S.A. 77-501 *et seq.*, the Board enters this Final Order. After reviewing the agency record, hearing the arguments of the parties, and being duly advised in the premises, the Board makes the following findings, conclusions, and orders.

**PROCEDURAL HISTORY**

On or about February 17, 2022, Petitioner submitted a Petition for discipline alleging that Licensee had a felony conviction. A Notice of Hearing was filed and served on March 14, 2022, and March 24, 2022, setting a Conference Hearing regarding the Petition. Licensee filed a Response to Petition and Incorporated Memorandum in Support on March 23, 2022. No objection to the Notice of Hearing was filed.<sup>1</sup>

**FINDINGS OF FACT**

1. On or about February 12, 2021, Licensee was convicted in the United States District Court (Virginia) of one county of willful failure to collect, account for, and pay over taxes, which is a felony. The following events lead to the conviction:

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<sup>1</sup> In advance of the oral arguments, the Board was provided the entire agency record to facilitate a comprehensive understanding of the underlying matter, including all exhibits, briefs, and motions filed by the parties in advance of oral arguments. Licensee submitted exhibits at the beginning of the hearing with no objection from the Board's disciplinary panel. The entire agency record was considered by the Board in rendering its decision.

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- a. From 2007 through 2009, Licensee operated Falls Church Family Care PC (“Falls Church”) in Virginia.
  - b. Licensee was responsible for collecting, accounting for, and paying over federal taxes for Falls Church from funds withheld from employees’ wages.
  - c. Licensee failed to pay over \$328,941.80 in payroll taxes for Falls Church.
  - d. From 2011 through 2018, Licensee owned and operated a doctor’s office, Walk-In Medical Center, PC, (“Walk-In”) in Virginia.
  - e. Licensee exercised significant control and was responsible for Walk-In’s financial affairs.
  - f. Walk-In was required to withhold Federal Insurance Contributions Act (“FICA”) taxes, Social Security and Medicare taxes, and federal income taxes from its employees’ wages. Additionally, Walk-In was required to pay over an employer portion of FICA taxes.
  - g. Licensee failed to pay over \$584,743.29 in payroll taxes for Walk-In.
  - h. Additionally, Licensee failed to pay over \$1,135,772 in corporate income taxes.
  - i. Licensee entered into a plea agreement with the U.S. Attorney’s office on December 31, 2020. As part of the agreement, Licensee agreed to plead guilty to one count of willful failure to collect, account for, and pay over taxes.
  - j. The Statement of Facts for the Plea Agreement stated that Licensee engaged in the conduct “willfully and knowingly and not because of accident, mistake, or other innocent reason.”
2. On June 23, 2021, Licensee was sentenced to prison for 3 months, followed by supervised release for 3 years. He was also ordered to serve 6 months of house arrest, 400 hours of community service, and to pay restitution in the amount of \$2,046,945.36.
  3. On or about May 26, 2021, Licensee self-reported the conviction to the Board.
  4. As a result of his conviction, Licensee voluntarily surrendered his license to practice medicine and surgery in Virginia via Consent Order on April 21, 2021.
  5. On May 5, 2021, Licensee was notified that his Medicare privileges were being revoked effective February 12, 2021, due to the conviction.

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6. On or about June 25, 2021, Licensee changed his license status from “active” to “exempt” with the Board.
7. In his Response to Petition and Incorporated Memorandum in Support as well as testimony at the hearing, Licensee did not dispute the conviction, surrender of Virginia license, or revocation of Medicare privileges.
8. Licensee provided mitigating and remedial evidence in an attempt to demonstrate that he would not pose a threat to the public and that he has been sufficiently rehabilitated to warrant the public trust.
  - a. In May 2019, Licensee received his license to practice medicine and surgery in Kansas and began working at the Lincoln County Hospital in Kansas.
  - b. Licensee was also the Director of Lincoln County Emergency Services, Lincoln Park Manor, Lincoln Medical Clinic, Sylvan Grove Medical Clinic, and he led and managed the COVID-19 response for Lincoln County. He was terminated from these positions upon receiving his conviction.
  - c. Licensee enrolled and passed the Ethics and Boundaries Seminar (“EBAS”) ethics examination in January 2022.
  - d. Licensee has been performing his community service hours at the Salina Senior Center and he anticipated being finished in February.
  - e. Licensee provided several pages of material, including positive character references, that were presented to the court when determining his sentence.
9. Licensee asked that the Board not revoke his license and instead issue a public censure. Licensee indicated that he had paid for his crime, surrendered his Virginia license, and had his Medicare privileges revoked. Licensee argued further restrictions or revocation of his license would not have a public protection purpose.
10. The Board’s Disciplinary Panel did not take a position as to what type of discipline Licensee should face. Rather, it deferred to the Board to make a determination pursuant to K.S.A. 65-2836(c) as to Licensee’s threat to the public and whether he has been sufficiently rehabilitated to warrant public trust.

### **APPLICABLE LAW**

Under K.S.A. 65-2836, a licensee's license may be revoked, suspended or limited, or the licensee may be publicly censured or placed under probationary conditions, or an application for

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a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

(c) The licensee has been convicted of a felony or class A misdemeanor, or substantially similar offense in another jurisdiction, whether or not related to the practice of the healing arts, or the licensee has been convicted in a special or general court-martial, whether or not related to the practice of the healing arts. The board shall revoke a licensee's license following conviction of a felony or substantially similar offense in another jurisdiction, or following conviction in a general court-martial occurring after July 1, 2000, unless a 2/3 majority of the board members present and voting determine by clear and convincing evidence that such licensee will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust. In the case of a person who has been convicted of a felony or convicted in a general court-martial and who applies for an original license or to reinstate a canceled license, the application for a license shall be denied unless a 2/3 majority of the board members present and voting on such application determine by clear and convincing evidence that such person will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust.

(j) The licensee has had a license to practice the healing arts revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state, territory, District of Columbia, or other country.

(s) Sanctions or disciplinary actions have been taken against the licensee by a peer review committee, healthcare facility, a governmental agency or department or a professional association or society for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action under this section.

### **CONCLUSION**

This is a case in which a licensed Kansas physician has been convicted of a felony, specifically for Willful Failure to Collect, Account For, and Pay Over Taxes, which is a violation of the Kansas Healing Arts Act. *See* K.S.A. 65-2836(c). As a result of the felony conviction, Licensee surrendered his license to practice medicine in Virginia and had his Medicare privileges revoked. These too are also violations of the Kansas Healing Arts Act under K.S.A. 65-2836(j), and (s). The crime was certainly significant, and the Board does not take the conviction or the violations of the Healing Arts Act lightly. However, the Board notes the conviction was not directly related to patient care and was more the result of financial mismanagement. Further, there is no evidence of Licensee ever having any other issues with the law.

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Based on the Board's opportunity to observe and consider the entire agency record including Licensee's testimony, the Board members present and voting find Licensee to be a credible and convincing witness, and that his testimony is accurate and trustworthy.

In determining whether Licensee is sufficiently rehabilitated from his actions to warrant public trust, the Board considered that Licensee appears to appreciate the wrongfulness of his actions, took accountability, and remedial action. Licensee testified before the Board and admitted what he did was wrong and held himself accountable. He stated he let down his patients, children, family, and students with what he did. Licensee said he moved to Lincoln County, Kansas and decided to throw himself into patient care and to try to give back to the community. He testified he served as the sole physician treating adults in the county from May 2019 to February 2021. He served as Chief of Staff and Director for both the medical clinics and emergency department, as well as the EMS director and Deputy Coroner. Additionally, he led the pandemic response in the area and continued seeing patients, even though his own health put him at high risk. These actions show the Board that Licensee held himself accountable and took steps to make positive changes.

Under K.S.A. 65-2836(c), the core findings that rebut the presumption of denial of licensure in this case are: (1) Licensee will not pose a threat to the public in his capacity as a doctor; and (2) Licensee's rehabilitation is sufficient to warrant public trust. More than a 2/3 majority of the Board members present and voting found Licensee had met his burden and has proven, by clear and convincing evidence, that Licensee will not pose a threat to Kansans in his capacity as a physician and he has been sufficiently rehabilitated to warrant public trust. Therefore, revocation of licensure is not the legally or practically appropriate consequence under the facts of this case.

Rather the Board finds, as it applies to the specific facts of this case, it is appropriate to publicly censure Licensee for his conduct. Furthermore, if Licensee meets all technical requirements for an active license designation in the future, Licensee will not need to appear in front of the Board as it pertains to this specific conviction.

**IT IS SO ORDERED** that Licensee will be **PUBLICLY CENSURED** this 9<sup>th</sup> day of May 2022.

**KANSAS STATE BOARD OF HEALING ARTS**

*Susan Gile*

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Susan Gile, Acting Executive Director

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### **NOTICE OF APPEAL 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. Under K.S.A. 77-529, parties 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 Susan Gile, Acting Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

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## CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **FINAL ORDER** was served, by depositing the same in the United States mail, postage prepaid, and emailed on this 9<sup>th</sup> day of May, 2022, addressed to:

Arshad Cheema, M.D.

**CONFIDENTIAL**

### *Licensee*

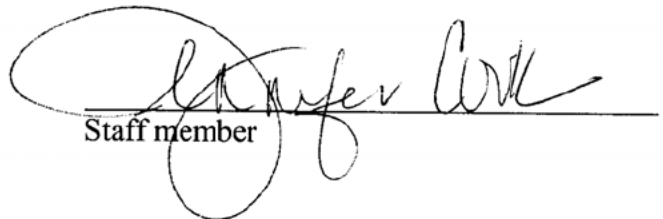
Kelli J. Stevens  
Forbes Law Group, LLC  
6900 College Blvd., Ste. 840  
Overland Park, KS 66211  
kstevens@forbeslawgroup.com  
*Attorney for Licensee*

### And 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

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

  
Staff member

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