

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

In the Matter of)
JOSEPH P. CLARK, P.A.)
)
Kansas License No. 15-00990)
)
_____)

**KSBHA Docket Nos. 14-HA00103
14-HA00123**

**FINAL ORDER DENYING MOTION TO STAY SUSPENSION AND FOR
REINSTATEMENT PURSUANT TO CONSENT ORDER**

NOW this 10th day of April, 2015, comes on for conference hearing before the Kansas State Board of Healing Arts (Board), the Motion of Joseph P. Clark, P.A. (“Licensee”) to Stay Suspension and for Reinstatement Pursuant to Consent Order. Licensee appears in person, and by and through his counsel, Carol Ruth Bonebrake of Simpson, Logback, Lynch, Norris, P.A. Seth Brackman, Associate Litigation Counsel, appears on behalf of the Respondent Board.

Pursuant to the authority granted to the Board by the Kansas Healing Arts Act, K.S.A. 65-28a01, *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. On or about August 15, 2014, Licensee entered into a Consent Order with the Board to resolve a pending disciplinary petition as well as an application for change of his physician assistant license designation from inactive to active.
2. The Consent Order suspended Licensee’s license to practice as a physician assistant for a period of no less than three (3) years, however, the Consent Order contained a

provision allowing Licensee's to petition the Board for a stay of that suspension after a period of six (6) months.

3. As part of the terms and conditions of the Consent Order, Licensee agreed that he would be subject to the *Vakas* factors and would be required to show by clear and convincing evidence that he was sufficiently rehabilitated to justify staying the suspension of his license.

4. Additional terms of the Consent Order required Licensee to enter into a monitoring contract with KMS-PHP. The monitoring contract was to be in place for no less than five (5) years, and was to be tolled for any period of time that Licensee was not actively practicing as a physician assistant in the State of Kansas.

5. The Consent Order further required Licensee to attend and successfully complete a competence assessment and educational intervention program assessment for physician assistants at the Center for Personalized Education for Physicians ("CPEP").

6. Licensee was also required as a term of the Consent Order to pay the costs incurred by the Board associated with these matters.

7. On or about March 6, 2015, Licensee filed a Request to Stay Suspension and for Reinstatement Pursuant to Consent Order ("Request").

8. In his Request, Licensee states that he has been compliance with his KMS-PHP monitoring contract. Licensee is able to support his position with letters from his sponsor and Carolyn Westgate with KMS-PHP, as well as his psychotherapist Emily Kofron, MSW, LSCSW. All evidence supports a finding that Licensee has remained sober since February 2012.

9. As part of his Request Licensee submitted a written narrative setting forth the reasons for his reliance on morphine to relieve his feelings of despair and depression. However,

Licensee does not reflect on or comment on the effect his actions had on the patients he diverted medication from or how his behavior adversely effected the medical profession as a whole.

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12. Licensee testified that he believed that his poor performance at CPEP was due to two factors. The first being that Confidential at the time he participated in the CPEP assessment and the second was that he requested to be tested in the area of family medicine even though he had not practiced family medicine in almost ten (10) years. His last employment from 2004 to 2012 was in the field of trauma and critical care medicine.

13. Licensee testified and presented evidence showing that since the CPEP assessment, he participated in a RN Refresher Course offered by Johnson County Community College. Licensee testified that he obtained 9 hours of classroom credit and 180 hours of clinical

hours. Licensee also stated that he had obtained 143 hours of CME credits obtained since February of 2012.

14. Licensee also submitted as evidence of his rehabilitation letters from his previous supervising physicians attesting to Licensee's skill and professionalism. However, each of these letters were written in October or November of 2013, prior to entering his Consent Order and his assessment at CPEP.

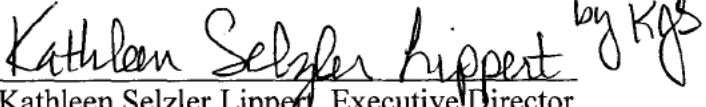
15. The Board finds that Licensee's poor performance during the CPEP evaluation was due solely to Licensee's own choices. Although Licensee believes that his lack of adequate medication and his choice of testing areas greatly impacted his performance on the CPEP evaluation, there is insufficient evidence to support these beliefs.

16. The Board concludes that Licensee's attempts at re-education to include CME hours and the RN Refresher Course are insufficient to address the serious deficits in medical knowledge applicable to physician assistant practice **Confidential**

17. The Board concludes that Licensee has not met his burden of clear and convincing evidence to demonstrate he has been sufficiently rehabilitated to have his suspension stayed.

IT IS THEREFORE ORDERED that Licensee's Motion to Stay Suspension and for Reinstatement Pursuant to Consent Order is hereby **DENIED**.

IT IS SO ORDERED THIS 24th **DAY OF APRIL, 2015, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**


Kathleen Selzler Lipper, 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 24th day of April 2015, a true and correct copy of the above and foregoing **FINAL ORDER DENYING MOTION TO STAY SUSPENSION AND FOR REINSTATEMENT PURSUANT TO CONSENT ORDER** was served by depositing the same in the United States mail, postage prepaid, and addressed to the following:

Joseph P. Clark, PA
Confidential
Lawrence, KS 66049

Carol Ruth Bonebrake
Simpson, Logback, Lynch, Norris, P.A.
107 SW 6th Avenue, Suite 210
Topeka, KS 66603

And a copy was hand-delivered to:

Seth Brackman, 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.