

**EFFECTIVE AS A FINAL ORDER**

**DATE:** 6/26/2020

FILED  
JUN 05 2020  
KS State Board of Healing Arts

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

In the Matter of )  
 ) KSBHA Docket No. 20-HA 00085  
Maxime J.M. Coles, M.D. )  
Kansas License No. 04-31291 )

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**SUMMARY ORDER**

NOW ON THIS 5<sup>th</sup> day of June, 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 77-537 and 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. Maxime J.M. Coles, M.D. ("Licensee") was originally issued license number 04-31291 to practice medicine and surgery in Kansas on or about June 11, 2005. Licensee last renewed such license on or about May 21, 2019. Licensee's current license designation is Active.
2. Licensee's last known mailing address to the Board is: **CONFIDENTIAL**  
**CONFIDENTIAL**
3. During all times relevant to the facts set forth in this Summary Order, Licensee held an active license to practice medicine and surgery in Kansas.
4. On or about June 5, 2019, the Board received a complaint from **CONFIDENTIAL**  
**CONFIDENTIAL** stated that Licensee deeded a property, once known as Coffeyville Orthopedic, PA, to the Bank and had moved to Florida. **CONFIDENTIAL**

CONFIDENTIAL advised that Licensee left numerous medical records at the property, which was located at 1501 W. 4<sup>th</sup>, Coffeyville, Kansas, 67337.

5. Based on the above information received by the Board,

CONFIDENTIAL

CONFIDENTIAL was subsequently opened against Licensee.

6. On or about June 18, 2019, Special Investigator Kevin Remy sent Licensee a letter inquiring about the allegation he abandoned medical records and requesting Licensee's response. Licensee was given a deadline of July 10, 2019.

7. On or about June 23, 2019, Licensee responded to the Board's request via an e-mail stating "I decided to foreclose an office that I have not used since May 2012. My records were in the building that I owe. When I discussed with the bank the foreclosure. I took all the charts and shredded them vis an Ideal Paper Shredder. Unfortunately, an overzealous lawyer wrote to the board with out even knowing where the office was nor that he/she visited it (*sic*)".

8. On or about July 18, 2020, Special Investigator Remy called Licensee and left a message inquiring if he was going to provide a response regarding the abandoned medical records allegation. The Licensee returned the phone call and stated that in his e-mail dated June 23, 2019, he had already said that he closed the facility and destroyed the records. He did not plan on submitting any additional statements or responses.

9. On or about July 25, 2019, Special Investigator Remy sent via certified mail a letter requesting additional information about the records and gave Licensee a response date of August 9, 2019. Special Investigator Remy asked:

- (a) What is the date you saw your last patient and permanently terminated your practice in Coffeyville, Kansas?

- (b) What is the date you shredded medical records, and was this completed by you or a company?
  - (c) Did any of the patient records that were shredded, contain documented care and treatment for any patient within the past ten years?
  - (d) Did you have any records stored by an electronic data system? If yes, what did you do with these records?
  - (e) When and how did you notify your patients of the process to request their medical records?
10. Licensee responded on July 29, 2019 and stated:
- (a) He saw his last patient on May 1, 2012.
  - (b) He shredded the files.
  - (c) He did not have an electronic records data system.
  - (d) His patients were notified when he was not living in Kansas any longer.
11. Licensee failed to directly answer Special Investigator Remy's question about whether any of the records were for patients treated in the past ten years and failed to provide the date of shredding. Licensee also failed to explain when and how he notified patients of the process to request their medical records.

**Applicable Law**

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

(k) The licensee has violated any lawful rule and regulation promulgated by the board or violated any lawful order or directive of the board previously entered by the board.

(r) The licensee has failed to furnish the board, or its investigators or representatives, any information legally requested by the board.

(ee) The licensee has knowingly or negligently abandoned medical records.

13. Under K.A.R. 100-24-2, (a) Each licensee shall maintain the patient record for a minimum of 10 years from the date the licensee provided the professional service recorded. Any licensee may designate an entity, another licensee, or health care facility to maintain the record if the licensee requires the designee to store the record in a manner that allows lawful access and that maintains confidentiality.

#### Conclusions of Law

14. 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.
15. Specifically:
- (a) Licensee violated K.S.A. 65-2836(ee) when he originally left medical records at the property after it was deeded to the bank.
  - (b) Licensee violated K.S.A. 65-2836(k) when he failed to maintain medical records for 10 years after a patient's last visit. Rather than maintain such records or find

a suitable custodian, Licensee admits that he destroyed the records in contravention of K.A.R. 100-24-2 (a).

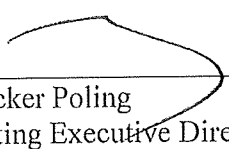
- (c) Licensee violated K.S.A. 65-2836(r) when he refused to provide information to the Board's investigator(s) about the creation of the destroyed medical records and the date of their destruction.

**IT IS, THEREFORE, ORDERED** that Licensee is **PUBLICLY CENSURED** for violating the Kansas Healing Art Act.

**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 9<sup>th</sup> day of June, 2020.

**KANSAS STATE BOARD OF HEALING ARTS**

  
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Tucker Poling  
Acting 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 Tucker L. Poling, Interim 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 26th day of June 2020 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Maxime J.M. Coles, MD  
**CONFIDENTIAL**

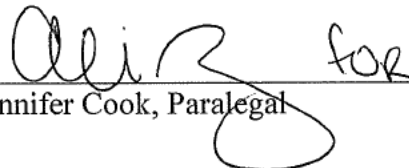
And a copy was hand-delivered to:

Stephen M. Lehwald 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.

  
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Jennifer Cook, Paralegal