

FILED *CAB*

OCT 26 2009

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

KS State Board of Healing Arts

In the Matter of)
Theodore Collins, D.O.)
)
Kansas License No. 05-21005)
_____)

Docket No. 09-HA00113

FINAL ORDER

NOW ON THIS 16th day of October, 2009, this matter comes on for hearing on the Board's Motion to Review Initial Order. Respondent appears in person with counsel, Amy Lemley of Foulston Siefkin LLP. Stacy Bond, Associate Litigation Counsel, appears for the Board. There are no other appearances.

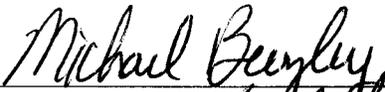
Having the agency record before it, the Board finds, concludes and orders as follows:

1. A hearing was held in this matter on June 1, 2009, before Presiding Officer Carolina Soria, D.O.
2. By Initial Order filed August 18, 2009, the Presiding Officer found that the respondent should be granted a license to practice osteopathic medicine and surgery in the State of Kansas.
3. The Board adopts the findings of fact and conclusions of law of the Initial Order and incorporates the same by reference into this Final Order.

IT IS, THEREFORE, ORDERED that Respondent is granted a license to practice osteopathic medicine and surgery in the State of Kansas.

PLEASE TAKE FURTHER 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 the Board's Executive Director at 235 SW. Topeka Blvd., Topeka, KS 66603.

Kansas State Board of Healing Arts


Michael Beezley
Board President *by Cathy A. Brown*

Certificate of Service

I certify that a true copy of the foregoing Final Order was served this 26th day of October, 2009, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Theodore Collins, DO
2934 West Lake Dr.
Emporia, KS 66801

and

Amy Lemley
Foulston Siefkin LLP
1551 N. Waterfront Parkway
Suite 100
Wichita, KS 67206
Attorney for Respondent

And a copy was hand-delivered to the office of

Stacy Bond
Associate Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, KS 66603

And

Katy Lenahan
Licensing Administrator
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, KS 66603

And the original filed with the office of the Executive Director



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AUG 18 2009

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of	}	
Theodore Collins, D.O.	}	Docket No. 09-HA00113
	}	
Kansas License No. 05-21005	}	
_____	}	

INITIAL ORDER

NOW this June 1, 2009 the above captioned matter comes before the Kansas State Board of Healing Arts, Dr. Carolina Soria, D.O. presiding, for a hearing. The Board appears by Stacy Bond and Janith Davis, Associate Litigation Counsels. The applicant appears in person and through Marta Fisher Linenberger and Amy Lemley of Foulston and Siefkin. There are no other appearances. The Presiding Officer, being duly apprised of the file, having heard the testimony of the parties and the statements of counsel and being duly apprised of the premises makes the following Findings of Fact and Conclusions of Law:

WHEREAS, the Presiding Officer made the following FINDINGS OF FACT:

1. The applicant held Kansas License No. 05-21005 between 1985 and 1987.
2. Dr. Theodore Collins did not at any time while he was practicing in Kansas deviate from the standard of care.
3. Dr. Collins met his burden of proof for licensure to show that he is a competent physician.
4. The only issue before the Presiding Officer is whether, or not, Dr. Collins intentionally lied on his application for licensure in 2008.
5. Theodore Collins is a physician certified by the American Osteopathic Board of Family Physician Specialists in Emergency Medicine.

6. Dr. Collins is, or has been licensed in Ohio, Kansas, Illinois, Michigan, Arizona, Missouri and New Mexico. The applicant has never lied on any previous applications. His licenses have never been restricted.

7. In 2007 the Kansas State Board of Healing Arts wrote the Arizona Board of Osteopathic Examiners in Medicine and Surgery, informing it that there were no pending complaints against Dr. Collins and that disciplinary action had not been taken against him.

8. On August 4, 2008 Dr. Collins submitted an application to the Board of Healing Arts for a license to practice osteopathic medicine and surgery.

9. In the application to practice osteopathic medicine and surgery, Dr. Collins failed to give the answers to Questions 5 and 10 in Section V Discipline.

9. Dr. Collins signed and dated the application for a license to practice osteopathic medicine and surgery.

10. On October 2, 2008, Dr. Collins was notified by board staff the application to practice osteopathic medicine was incomplete.

11. On that same day, Dr. Collins went to Topeka to complete the application and to meet with officials of the licensing department.

12. The applicant gave a handwritten statement to the Board in an attempt to clear up any confusion over the application.

13. On October 2, 2008, Licensee/Applicant answered questions #5 and #10 by circling "no" as the answer for each question.

14. On November 10, 2008, Dr. Collins provided the Board with an affidavit, documentation and further explanation why his answers to the questions on the application to practice osteopathic medicine and surgery were left blank.

15. Based upon the applicant's explanation and credibility at the hearing, the Presiding Officer does not believe the applicant was attempting to deceive the Board into granting Dr. Collins a license to practice osteopathic medicine and surgery.

16. However, based upon the applicant's explanation, credibility and demeanor, the Presiding Officer determines that Dr. Collins does not take seriously the importance of accurately and completely filling out an application for a license to practice osteopathic medicine and surgery in the State of Kansas.

WHEREAS, the Presiding Officer made the following CONCLUSIONS OF LAW:

1. Dr. Theodore Collins applied for a license to practice osteopathic medicine and surgery. The respondent timely filed a responsive pleading requesting Dr. Collins application be denied. Notice of the hearing was properly served upon the parties. The Board has personal and subject matter jurisdiction of these proceedings.

2. The purpose of the Kansas Healing Arts Act is to protect the public from the unprofessional, improper, unauthorized, and unqualified practice of the healing arts. See K.S.A. 65-2801 and *Kansas State Board of Healing Arts v. Foote*, 200 Kan. 447 (1968).

3. The applicant was previously licensed to practice osteopathic medicine by the Board of Healing Arts.

4. The Kansas State Board of Healing Arts may deny reinstatement to an applicant upon a finding by the Board the applicant:

(a) has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license in violation of K.S.A. 65-2836(a);

(b) that at sanctions or disciplinary actions have been taken against the licensee/applicant by a peer review committee, health care facility, a governmental agency or department or a professional association or society for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section in violation of K.S.A. 65-2836(s);

(c) has failed to report to the board any adverse action taken against the applicant by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, by a law enforcement agency or a court for acts or conduct similar to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section in violation of K.S.A. 65-2836(t).

5. Preponderance of the evidence is the standard that should be utilized by the Presiding Officer in determining if the Petitioner has met its burden. “In all civil actions, the party asserting the affirmative of an issue is entitled to prevail upon the production by him of a preponderance of evidence.” *People’s Bank of Minneapolis v. Reid et. al.* 86 Kan. 245, 120 P. 339 (1912).

6. Based upon the stipulations of the parties, the applicant has not violated K.S.A. 65-2836(s) and (t).

7. Based upon the evidence provided at hearing, the Presiding Officer concludes that Dr. Collins did not intentionally commit fraud or misrepresentation in his application for a license to practice osteopathic medicine and surgery.

8. The Presiding Officer finds the applicant failed to fully fill out and failed to submit a completed application for the practice of osteopathic medicine and surgery.

9. An application for licensure must be properly filled out to determine whether, or not, an applicant has met the minimum requirements necessary to practice the healing arts in Kansas.

10. Failure by the applicant to properly fill out an application to practice the healing arts would reasonably be expected to result in violations of the Kansas Healing Arts Act.

11. 65-2838a(4) allows the Board to issue a written letter of concern to be issued to a licensee when such has engaged in an act or practice that, if continued, would reasonably be expected to result in future violations of the Kansas healing arts act.

12. The Presiding Officer finds that a written letter of concern shall be issued to Theodore Collins, D.O. for his failure to properly fill out and submit the 2008 application for a license to practice osteopathic medicine and surgery.

13. The Presiding Officer finds that a license to practice osteopathic medicine and surgery shall be issued to the applicant, Theodore Collins, D.O.

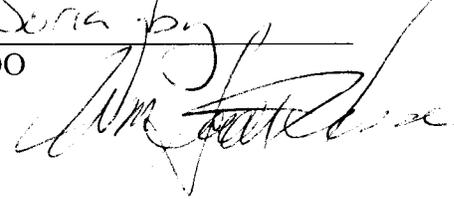
IT IS, THEREFORE, ORDERED that applicant shall be granted a license to practice the healing arts.

IT IS SO ORDERED.

APPEAL RIGHTS

Pursuant to K.S.A. 77-527, either party may appeal this Initial Order. A petition for review must be filed within 15 days from date of this Initial Order. Failure to timely request review must be filed within 15 days from the date of this Initial Order. If neither party requests a review, this Initial Order becomes final and binding on the 30th day following its mailing. Petitions for review shall be mailed or personally delivered to:

Jack Confer, Executive Director, Kansas Board of Healing Arts, 235 SW Topeka Blvd.,
Topeka, KS 66603.


Carolina Soria, DO
Presiding Officer 

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing INITIAL ORDER was served by depositing the same in the United States mail, first-class postage prepaid, this 18th day of July, 2009, addressed to:

Marta Fisher Linenberger
Fouston, Siefkin, LLP
534 S. Kansas Ave.
Topeka, KS 66603

Amy Lemley
Foulston, Siefkin, LLP
1551 N. Waterfront Pkwy., Suite 100
Wichita, KS 67206

And a copy hand delivered to the office of

Stacy Bond
Associate Litigation Counsel
235 SW Topeka Blvd
Topeka, KS 66603

Janith Davis
Associate Litigation Counsel
235 SW Topeka Blvd
Topeka, KS 66603

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

