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JUL 31 2012

KS State Board of Healing Arts

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

In the Matter of)
TODD ECK, D.C.)
)
Kansas License No. 01-03922)
_____)

KSBHA Docket No. 08-HA00050

**JOURNAL ENTRY TERMINATING STAY OF EFFECTIVENESS OF
THE FINAL ORDER AND RESTORING SUSPENSION OF LICENSE AND FINE**

NOW, on this 30th day of July, 2012, comes before the Kansas State Board of Healing Arts ("Board") the above-captioned matter of Todd Eck, D.C. ("Licensee") for termination of the stay of effectiveness of the Final Order on Reconsideration, and restoration of the suspension of license and fine issued against Licensee, following the conclusion of Judicial Review in Shawnee County District Court Case No. 08-C-1094. Kathleen Selzler Lippert, Executive Director, a duly authorized representative of the Board, in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*, and upon due consideration of the agency record and applicable law, and being otherwise duly advised in the premises, makes the following determinations:

1. Licensee was issued License No. 01-03922 on approximately December 9, 1988, to engage in the practice of chiropractic in the State of Kansas.
2. On or about March 13, 2008, an Initial Order was filed by the Presiding Officer in this matter, finding that the Respondent had failed to identify his profession in printed advertisements on multiple occasions even after having been disciplined for the same conduct in the past.
3. On April 26, 2008, the full Board conducted review of the Initial Order.

4. The Board issued its Final Order on May 21, 2008, suspending Licensee's license to practice chiropractic in the State of Kansas for a period of 90 days, and fining Licensee \$10,000.00. The effectiveness of the suspension and fine were stayed during the pendency of the time in which Respondent could seek reconsideration as allowed under the Kansas Administrative Procedure Act, K.S.A. 77-528, and until resolution of such a request.

5. Respondent filed a Petition for Reconsideration with the Board on or about May 21, 2008.

6. A conference hearing was held on June 21, 2008, concerning Respondent's Petition for Reconsideration.

7. On or about June 27, 2008, the Board issued a Final Order on the Petition for Reconsideration, reducing the suspension of Licensee's license to practice chiropractic from 90 days to 30 days, but affirming the \$10,000.00 fine. The suspension was ordered effective as of July 1, 2008. The fine was ordered to be payable 30 days from the effective date of the Final Order.

8. On or about July 8, 2008, Respondent filed a Petition for Stay of Effectiveness of the Board's Final Order on Reconsideration pursuant to the Kansas Administrative Procedure Act, K.S.A. 77-528, with the intent to file a Petition for Judicial Review pursuant to the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601, *et seq.*

9. The Board issued an Order on July 9, 2008, granting Licensee's Petition for Stay of Effectiveness of the Board's Final Order on Reconsideration with respect to the suspension and fine imposed by the Final Order filed on June 27, 2008, pending judicial review.

10. On or about July 20, 2008, Licensee filed a Petition for Judicial Review in Shawnee County District Court, Case No. 08-C-1094, seeking review of the Board's Final Order on Reconsideration of June 27, 2008.

11. On April 6, 2012, the Honorable Franklin Theis issued a Memorandum Decision and Entry of Judgment on Licensee's Petition for Judicial Review entering judgment in favor of the Board, affirming the decision of the Board, and taxing the costs to Petitioner/Licensee.

12. On or about May 4, 2012, Petitioner/Licensee moved the Court to Alter or Amend it's the Memorandum Opinion and Entry of Judgment.

13. On June 25, 2012, the Honorable Franklin Theis issued an Order denying Petitioner/Licensee's Motion for Reconsideration.

14. Upon the conclusion of judicial review and the District Court's affirmation of the agency action in this matter, the Board concludes that termination of the stay of the effectiveness of the Board's June 27, 2008 Final Order on Petition for Reconsideration is appropriate.

15. Licensee notified the Board through his counsel that he was prepared to serve his 30-day suspension commencing July 26, 2012.

16. The Board concludes that the 30-day suspension of Licensee's license to practice chiropractic in the State of Kansas, and the \$10,000.00 fine issued against Licensee's license in the Board's June 27, 2008, Final Order on Reconsideration, should be restored.

IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS that the stay of the effectiveness of the Board's Final Order on Reconsideration of June 27, 2008 is hereby terminated.

IT IS FURTHER ORDERED that the 30-day suspension of Licensee's license to practice chiropractic in the State of Kansas is hereby restored effective July 26, 2012.

IT IS FURTHER ORDERED that the 30-day suspension of Licensee's license to practice chiropractic in the State of Kansas is hereby restored effective July 26, 2012. Licensee's license shall be suspended from July 26, 2012 through August 24, 2012.

IT IS FURTHER ORDERED that the \$10,000.00 fine issued against Licensee's license to practice chiropractic in the State of Kansas, of which \$3,500.00 has already been paid, is hereby restored effective July 26, 2012, and due in full within 30 days following service of this Order, or on September 1, 2012, whichever is later.

IT IS FURTHER ORDERED that the Board shall maintain jurisdiction over this matter to issue future order(s) deemed necessary and appropriate in the circumstances.

IT IS SO ORDERED THIS 30th DAY OF JULY, 2012, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.


Kathleen Selzler Lippert, Executive Director
Kansas State Board of Healing Arts

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, the Board's Executive Director, at 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing **JOURNAL ENTRY TERMINATING STAY OF EFFECTIVENESS OF THE FINAL ORDER AND RESTORING SUSPENSION OF LICENSE AND FINE** was served on this 31st day of July, 2012 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Todd Eck, D.C.
112 S. Main, Ste. 110
El Dorado, KS 67042

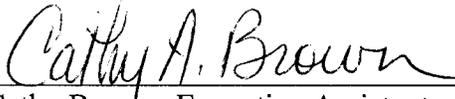
Carol R. Bonebrake
Holbrook & Osborn, P.A.
107 S.W. 6th Avenue
Topeka, KS 66603

Kevin Fowler
Frieden, Unrein & Forbes, LLP
555 S. Kansas Ave., Suite 303
Topeka, KS 66603

And a copy was hand-delivered to:

Reese H. Hays, Litigation Counsel
Dan Riley, Disciplinary Counsel
Katy Lenahan, Licensing Administrator
Melissa Massey, Compliance Coordinator
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.



Cathy Brown, Executive Assistant