

JAN 14 2013

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

KS State Board of Healing Arts

**In the Matter of** )  
**BRADLEY D. ECK, D.C.** )  
 )  
**Kansas License No.: 01-04269** )  
\_\_\_\_\_ )

**KSBHA Docket No.: 12-HA00004**

**FINAL ORDER REVOKING LICENSURE AND ASSESSING COSTS**

COMES NOW the Kansas State Board of Healing Arts (“Board”), by and through its Executive Director, Kathleen Selzler Lippert, in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*, as amended; pursuant to the authority granted to Board by K.S.A. 65-2801 *et seq.*, as amended; and, upon due consideration of the file and applicable statutes, and being otherwise duly advised in the premises makes the following determinations in the above-captioned matter:

1. Bradley D. Eck, D.C. (“Respondent”) was issued License No. 01-04269 to engage in the practice of chiropractic in the State of Kansas on approximately June 23, 1995.
2. On or about July 12, 2011, a Petition was filed seeking revocation or disciplinary action against Respondent’s license to practice chiropractic in the State of Kansas for alleged violations of the Kansas Healing Arts Act including numerous standard of care violations and conduct violations.
3. Pursuant to K.S.A. 77-514, a Presiding Officer was appointed to this matter on or about July 16, 2011.
4. On or about July 22, 2011, Carol R. Bonebrake withdrew her appearance as counsel of record for Respondent in this matter.

5. On or about August 2, 2011, Gregory P. Forney of Shaffer Lombardo Shurin, P.C. entered his appearance as counsel of record for the Respondent.

6. The Presiding Officer issued a Notice of Hearing and served the same on the parties, including Respondent himself, on or about February 14, 2012.

7. On or about October 23, 2012, the Presiding Officer issued an Order providing notice to the parties of the formal hearing dates, and further permitting Gregory P. Forney and Evan A. Rosell, to withdraw their representation as counsel for Respondent. Such Order was served on the Respondent himself as well.

8. A formal hearing on the Petition was held before Presiding Officer, Stephen E. Good, of the Office of Administrative Hearings beginning on November 26, 2012. Respondent was given notice of the hearing through his former attorney and a copy was also mailed to Respondent's last known address. Respondent did not appear for the hearing and failed to communicate to the presiding officer or opposing counsel any request for a continuance, nor did any representative appear on his behalf.

9. At the November 26, 2012 hearing, Petitioner presented evidence and admitted exhibits supporting Respondent's violations of the Kansas Healing Arts Act as set forth in the July 12, 2011, Petition.

10. Pursuant to K.S.A. 77-520, Respondent was in default for his failure to appear at the formal hearing on November 26, 2012. Therefore, the allegations against Respondent, as stated in the Petition, are deemed undisputed.

11. On or about December 11, 2012, the Presiding Officer issued a Proposed Default Order in accordance with K.S.A. 77-520, and Initial Order in accordance with K.S.A. 77-526

making findings of facts, conclusions of law, and recommendations as to the appropriate sanctions that should be brought against Respondent's license.

12. Based on the evidence presented and exhibits admitted, the Presiding Officer determined that Respondent's violations of the Kansas Healing Arts Act were supported by competent, admissible evidence.

13. The Board, upon review of the agency record, determines that Respondent's violations of the Kansas Healing Arts Act are supported by competent, admissible evidence and further, that the violations warrant revocation of licensure with costs assessed to Respondent.

14. Pursuant to K.S.A 77-526 and 77-527, the Proposed Default Order and Initial Order notified Respondent that the order would become effective as a Final Order of the Board thirty (30) calendar days following service of the same, unless a party files a Petition for Review with the Board within fifteen (15) calendar days following service of the order.

15. Respondent failed to file a motion to vacate the Proposed Default Order within the seven (7) calendar days following service of the order, pursuant to K.S.A. 77-520.

16. Respondent failed to file a petition for review of the Initial Order within the fifteen (15) calendar days following service of the order, pursuant to K.S.A 77-527.

17. Pursuant to K.S.A. 77-520 the Proposed Default Order became effective as a Final Order on December 17, 2012.

18. Pursuant to K.S.A. 77-527 and 77-530 the Initial Order became effective as a Final Order on January 8, 2013.

19. The evidence and testimony in the agency record support the Presiding Officer's determination that Respondent's treatment of Patients (1) through eleven (11) deviated from the

standard of care to a degree that constitutes ordinary and gross negligence, as set forth in the Initial Order.

20. The Board’s statutory duty is to protect the public health, safety and welfare. This duty to regulate the practice of healing arts in the State of Kansas is set forth in K.S.A. 65-2801:

Recognizing that the practice of the healing arts is a privilege granted by legislative authority and is not a natural right of individuals, it is deemed necessary as a matter of policy in the interests of public health, safety and welfare, to provide laws and provisions covering the granting of that privilege and its subsequent use, control and regulation to the end that the public shall be properly protected against unprofessional, improper, unauthorized and unqualified practice of the healing arts and from unprofessional conduct by persons licensed to practice under this act.

Inherent to the Board’s duty is the necessity to ensure that all licensees adhere to the applicable standard of care. Further, the Board is allowed to use its own expertise in determining whether a violation of the standard of care has occurred. *Heart v. Kansas Bd. Of Healing Arts*, 27 Kan.App.2d 213, 2 P.3d 797 (2000). In *Heart*, the Court found that deference should be given to the Board given the nature of the Board’s expertise in matters involving the various standards of care for the healing arts profession

21. The Board looks to the agency’s “Guidelines for the Imposition of Disciplinary Actions” for guidance when exercising its discretion to determine the appropriate sanction for violations of the Healing Arts Act. In this matter, the nature and extent of Respondent’s violations demonstrate professional incompetence and dishonesty. Respondent’s violations are harmful to patients and undermine the integrity of the chiropractic profession. Additionally, Respondent has had previous discipline against his license in KSBHA Docket Nos. 07-HA00095 and 10-HA00059. Based on Respondent’s multiple violations in this matter and in light of the aggravating circumstances noted above, the sanction of revocation imposed by the Presiding

Officer is an appropriate sanction under the “Guidelines for the Imposition of Disciplinary Actions.”

22. The Board finds that, pursuant to K.S.A. 77-520, Respondent was in default for his failure to appear at the formal hearing on November 26, 2012.

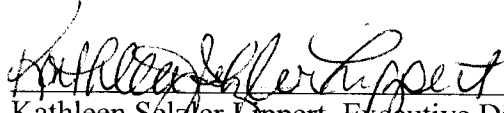
23. The Board has reviewed the agency record and exhibits, and hereby accepts, adopts and incorporates herein by reference the Findings, Conclusions and Order contained in the Proposed Default Order and Initial Order.

24. The Board further finds that, upon consideration of all relevant circumstances in this proceeding, the costs of the proceeding in the amount of \$11,932.44 as set forth in Petitioner’s January 7, 2013, Statement of Costs should be assessed to Respondent pursuant to K.S.A. 65-2846.

**IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS** that the costs in the amount of \$11,932.44 are hereby assessed to Respondent. Respondent is ordered to pay such costs in full to the Board on or before February 18, 2013. Respondent shall make his payment of the costs payable to the “Kansas State Board of Healing Arts” and submit the payment to the attention of: Compliance Coordinator, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.

**IT IS FURTHER ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS** that Bradley D. Eck, D.C.’s License No. 01-004269, to practice chiropractic in the State of Kansas, is hereby REVOKED.

**IT IS SO ORDERED THIS 14<sup>th</sup> DAY OF JANUARY, 2013, 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.

**NOTICE REGARDING UNLAWFUL  
CORPORATE PRACTICE OF CHIROPRACTIC**

**PLEASE TAKE NOTICE** that your license to practice chiropractic in the State of Kansas has been revoked. As such, you may no longer lawfully hold an ownership interest in any professional business entity organized to provide chiropractic services in the State of Kansas.

**NOTICE REGARDING DUTY TO MAINTAIN PATIENT RECORDS**

**PLEASE TAKE NOTICE** that pursuant to K.A.R. 100-24-2, you are required to maintain each of your patients' records for a minimum of 10 years from the last date of service. Because you cannot actively practice, K.A.R. 100-24-3 requires that you notify the Board on or before February 18, 2013, of the location of your patients' records, the name of the designated agent to maintain the records, along with the telephone number and mailing address of the agent. If you will be maintaining the records yourself, you shall give your contact information instead. This information will be provided to former patients who contact the Board to inquire as to the location of their records. You should also be aware that if you are unable or refuse to allow patients access to their records, the Board may petition the court for appointment of a custodian of the records pursuant to K.S.A. 65-28,128.

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing **FINAL ORDER REVOKING LICENSURE AND ASSESSING COSTS** was served on this 14<sup>th</sup> day of January 2013, by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Bradley D. Eck, D.C.  
2260 N. Ridge Road, Ste. 100  
Wichita, KS 67205

Bradley D. Eck, D.C.  
8717 W. Havenhurst  
Wichita, KS 67205

And a copy was hand-delivered to the following:

Stacy R. Bond, Associate Litigation Counsel  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

Katy Lenahan, Licensing Administrator  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

The original was filed with the office of:

Kathleen Selzler Lippert, Executive Director  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

  
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Cathy Brown, Executive Assistant