

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED
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CRB

In the Matter of:)
)
Ed R. Elkouri, DPM)
)
Application for Reinstatement of)
License to Practice Podiatry)
)
)

KS State Board of Healing Arts

KSBHA Docket No. 12-HA00009

AGREED FINAL ORDER GRANTING REINSTATEMENT OF LICENSE

NOW on this 21st day of October 2011, comes before the Kansas State Board of Healing Arts (Board) the application of Ed R. Elkouri (Applicant) for reinstatement of license to practice podiatry in the State of Kansas. Applicant appears in person, *pro se*. Jessica Bryson, Associate Litigation Counsel, appears on behalf of the Applicant Board.

In accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*, and pursuant to the authority granted to Board by the Podiatry Act, K.S.A. 65-2001 *et seq.*, the Board hereby enters this Agreed Final Order in the above-captioned matter. After reviewing the file, hearing the testimony of the Applicant, hearing the statements and arguments of the parties, and being otherwise duly advised in the premises, the Board and Applicant do hereby enter this Agreed Final Order granting reinstatement of license.

Findings of Fact

The Board has been shown the following facts:

1. On or about July 8, 2011, Applicant submitted an application for reinstatement of his license to practice podiatry for in the State of Kansas.

2. Applicant's most recent mailing address as provided to the Board is: confidential

confidential Wichita, Kansas 67226.

3. Applicant initially received a license to practice podiatry in the State of Kansas in August of 1978.

4. Applicant disclosed that he last practiced podiatry in May of 2006.

5. Board records indicate that Applicant's license to practice podiatry in the State of Kansas was cancelled on November 17, 2009.

6. Applicant intends to practice podiatry with a practice partner who is licensed to practice podiatry in the State of Kansas.

7. The Federation of Podiatric Medical Boards reports no adverse disciplinary actions currently on file regarding Applicant.

8. Applicant has no intention to practice surgery in the State of Kansas.

9. Applicant has failed to submit proof that he completed the requisite continuing education credits during the time that his license to practice podiatry was cancelled, other than stating that he has kept current through taking courses, reading medical journals, and attending medical seminars when possible.

10. Pursuant to K.S.A. 65-2005(c):

Any licensee who allows the licensee's license to be canceled by failing to renew may be reinstated upon recommendation of the board and upon payment of the renewal fee and the reinstatement fee established pursuant to K.S.A. 65-2012 and amendments thereto and upon submitting evidence of satisfactory completion of the applicable reeducation and continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate reeducation and continuing education requirements for reinstatement of persons whose licenses have been canceled for failure to renew.

11. Pursuant to K.A.R. 100-49-8(d):

Each applicant desiring to reinstate a license that has been canceled for failure to renew ... shall submit proof of continuing education to the board as follows:

... (2) If the time since the license was canceled . . . has been more than one year, the applicant shall complete a program of continuing education recommended by the board.

12. Pursuant K.A.R. 100-49-8(d), there are grounds to require Applicant to complete a program of continuing education recommended by the board.

13. Pursuant to K.S.A. 65-2006(a)(8), there are grounds to deny Applicant's application for reinstatement for failure to submit proof of completion of a continuing education course required pursuant to the podiatry act.

Party Stipulations

Applicant hereby consents and agrees to the following:

14. The podiatry act is constitutional on its face and as applied in this case.

15. The Board maintains jurisdiction over Applicant and over this subject matter.

16. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of podiatry and to enforce violations of the podiatry act, to include rules and regulations promulgated thereunder.

17. This Agreed Final Order is consistent with applicable law, and the Board is not acting beyond its jurisdiction in considering this matter or in entering into this Agreed Final Order. This Agreed Final Order shall constitute the Board's Final Order.

18. Pursuant to K.S.A. 77-526, the Board expressly reserves and maintains the right and authority to enforce the terms of this Agreed Final Order.

19. Pursuant to K.S.A. 77-504, Applicant may waive any right conferred upon Applicant, except as otherwise precluded in the Kansas administrative procedure act.

20. Pursuant to K.S.A. 2010 Supp. 77-505, nothing in the Kansas administrative procedure act shall preclude the informal settlement of matters that may make other proceedings

unnecessary.

21. Pursuant to the Kansas Judicial Review Act, K.S.A 77-601 *et seq.*, Applicant waives all rights to a hearing on, or appeal of, this Agreed Final Order.

22. Applicant understands and agrees that upon signature by Applicant, and by the Executive Director of the Board, this Agreed Final Order shall be a public record and shall be reported to any entities authorized to receive disclosure of the Agreed Final Order.

23. Applicant hereby releases the Board, its individual members (in their official and personal capacity), attorneys, employees and agents, hereinafter collectively referred to as "Releasees", from any and all claims, including but not limited to those alleged damages, actions, liabilities, both administrative and civil, including the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.*, arising out of the investigation and acts leading to the execution of this Agreed Final Order. This release shall forever discharge the Releasees of any and all claims or demands of every kind and nature that Applicant has claimed to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected, and Applicant shall not commence to prosecute, cause or permit to be prosecuted, any action or proceeding of any description against the Releasees.

Non-disciplinary Practice Monitoring Requirements

Applicant hereby consents and agrees to the following:

24. Applicant's practice of podiatry shall be monitored by a Board-approved practice monitor for a period of not less than twelve (12) months. The practice monitor shall ensure Applicant's compliance with the requisite standard of care and record keeping. Such monitoring is non-disciplinary in nature and does not constitute a restriction on Applicant's license.

25. The Board designates Board Member M. Myron Leinwetter, D.O., to review and approve/disapprove any practice monitor proposed by Applicant.

26. Applicant has proposed that his intended practice partner serve as his practice monitor.

27. On or before November 15, 2011, Applicant shall submit the following information to the Board: written verification of the name, license number, and curriculum vitae of Applicant's proposed practice monitor, and a written statement from the proposed practice monitor indicating that the person agrees to serve as Applicant's practice monitor pursuant to the terms of this Agreed Final Order. Such information shall be sent to the Board, in care of the Office of the General Counsel, to: 800 SW Jackson Street, Lower Level-Suite A, Topeka, Kansas 66612.

28. Applicant shall ensure that Applicant's practice monitor submits quarterly monitoring reports to the Board, on a form to be provided by the Board, on or before each of the following dates: March 15, 2012; June 15, 2012; September 15, 2012; and, December 15, 2012. Each monitoring report shall include a summary of the monitor's review and observations of Applicant during the quarter, and shall state whether Applicant is (1) seeing patients, (2) providing treatment in an appropriate and timely manner, (3) practicing within the required standard of care, (4) maintaining adequate medical record documentation, and (5) any and all additional relevant information deemed necessary by the practice monitor. Such monitoring reports shall be sent to the Kansas Board of Healing Arts, Attention: Compliance Coordinator, 800 SW Jackson Street, Lower Level-Suite A, Topeka, Kansas 66612.

29. For any period of time that Applicant is not actively practicing podiatry in Kansas, the practice monitoring provisions of this Agreed Final Order shall be tolled and not be considered toward reducing the required monitoring timeframe.

30. The monitoring provisions of this Agreed Final Order Reinstatement of License are not self-terminating. After the Board has received all of the quarterly monitoring reports required above, Applicant may file a motion with the Board requesting modification or termination of the monitoring provisions of this Agreed Final Order.

31. Applicant shall keep Board staff informed of his current mailing address, telephone numbers, and all current practice locations, and shall notify the Board, in writing, within ten (10) days of any change to such information.

32. The parties agree that the non-disciplinary monitoring requirements of this Agreed Final Order do not constitute any limitation or restriction on Applicant's license to practice podiatry.

Violation of this Agreed Final Order

33. Applicant hereby understands and agrees that if the Board finds, after written notice and an opportunity for a hearing, that Applicant has failed to comply with any term of this Agreed Final Order, the Board may immediately impose any sanction provided for by law, including but not limited to suspension or revocation of Applicant's license to practice podiatry in the State of Kansas.

34. Applicant hereby understands and agrees that, at any such hearing, the sole issue shall be whether or not Applicant has failed to comply with any of the terms or conditions set forth in this Agreed Final Order. The Board acknowledges that at any such hearing, Applicant retains the right to confront and examine all witnesses, present evidence, testify on his own

behalf, contest the allegations, present oral argument, appeal to the courts, and all other rights set forth in the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.*

35. Nothing in this Agreed Final Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the podiatry act, or to investigate complaints received against Applicant that are not covered under this Agreed Final Order, or to initiate formal proceedings based upon allegations of violations of the podiatry act.

36. The Board may consider all aspects of this Agreed Final Order in any future matter regarding Applicant.

Order

IT IS THEREFORE ORDERED BY THE KANSAS STATE BOARD OF HEALING ARTS that Applicant has demonstrated satisfactory compliance with the Podiatry Act to be granted reinstatement of a license to practice podiatry in the State of Kansas, and is hereby granted a license to practice podiatry in the State of Kansas under the non-disciplinary terms set forth in this Agreed Final Order.

IT IS FURTHER ORDERED that all of the terms and conditions of this Agreed Final Order are fair, just and equitable, are in the public interest, and hereby incorporated and made a part of this order.

IT IS FURTHER ORDERED that this Agreed Final Order, entered into by and between the Board and Applicant, is the expressed written intent of the parties and constitutes the whole agreement between the parties.

IT IS FURTHER ORDERED that this Agreed Final Order constitutes non-disciplinary action.

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

IT IS SO ORDERED THIS 21st DAY OF Nov, 2011, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.

FOR THE KANSAS STATE BOARD OF HEALING ARTS:


Kathleen Selzler Lippert
Executive Director
Kansas State Board of Healing Arts

I have read, clearly understand, and fully agree to all of the terms and conditions of this Agreed Final Order, and I enter into this Agreed Final Order freely and voluntarily.


Ed R. Elkouri, DPM
2871 N. Cypress
Wichita, Kansas 67226

11-10-11
Date

PREPARED AND APPROVED BY:


Randy E. Stookey, #21885
Assistant General Counsel
Kansas State Board of Healing Arts

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true copy of the foregoing **Agreed Final Order Granting Reinstatement of License** was served this 21st day of November, 2011 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Ed R. Elkouri, DPM
confidential
Wichita, Kansas 67226

And a copy was hand-delivered to the following:

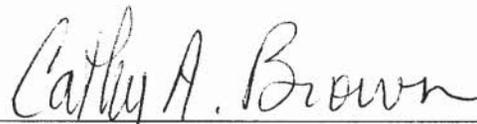
Jessica Bryson, Associate Litigation Counsel
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800 SW Jackson, Lower Level-Suite A
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Katy Lenahan, Licensing Administrator
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Melissa Massey, Compliance Monitor
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



Cathy Brown
Executive Assistant