

FILED
JUN 10 2016

OK

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of)	
)	KSBHA Docket No. 16-HA00103
JOEL ERSKIN, P.A.)	OAH Docket No. 16-HA <u>0012</u>
Kansas License No. 15-00265)	

EX PARTE EMERGENCY ORDER OF SUSPENSION OF LICENSE

NOW on this 10th day of June, 2016, comes before Administrative Law Judge/Presiding Officer Michele Tunnell the Petitioner's Motion for *Ex Parte* Emergency Order of Suspension and for Emergency Proceedings filed against the license of Joel Erskin, P.A. ("Licensee") by the Petitioner Board.

The Presiding Officer has reviewed the agency record in Kansas Board of Healing Arts Docket No. 16-HA00103, including the Petition filed June 8, 2016, and the Petitioner's Motion for *Ex Parte* Emergency Order of Suspension and for Emergency Proceedings ("Motion") filed June 8, 2016, against Licensee's license. The Motion requests an emergency suspension of Licensee's license, requests emergency proceedings and seeks a protective order regarding certain privileged and confidential information. The Presiding Officer has also reviewed Board Exhibits 1 through 17 that are attached to the Petition. Based upon due consideration of the pleadings and exhibits in the agency record, the Presiding Officer finds, concludes and orders as follows:

1. The Motion requests an order be issued pursuant to K.S.A. 65-2838(c) and K.S.A. 77-536(a)(1). Under those statutes, the Administrative Law Judge/Presiding Officer may issue an order without notice and hearing and may temporarily limit or suspend a license if the Administrative Law Judge/Presiding Officer finds an imminent danger to the public health and safety.

2. Licensee's last known mailing address to the Board is: Confidential Garden City, Kansas 67846.

3. Licensee is or has been entitled to practice as a physician assistant in the State of Kansas, having been issued License No. 15-00265 on approximately January 29, 1988. Licensee's current license is active, and having last renewed such license on approximately December 29, 2015.

4. On June 8, 2016, a Petition was filed in this matter that alleged that Licensee had solicited professional services through the use of fraudulent or false advertisements; willfully or repeatedly violated the physician assistant licensure act, the pharmacy act of the state of Kansas... or any regulations adopted pursuant to these acts; knowingly submitted any misleading, deceptive, untrue, or fraudulent representation on a claim form, bill, or statement; willfully committed conduct likely to deceive, defraud, or harm the public; failed to report to the board any adverse action taken against the licensee by another...government agency... or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section; and exceeded or acted outside the scope of authority given the physician assistant by the responsible supervising physician or by this act. The Petition alleged Licensee violated K.S.A. 65-28a05(a), as further defined in K.A.R. 100-28a-8(d), K.S.A. 65-28a05(a), as further defined in K.A.R. 100-28a-8(e), K.S.A. 65-28a05(a), as further defined in K.A.R. 100-28a-8(n), K.S.A. 65-28a05(a), as further defined in K.A.R. 100-28a-8(r), K.S.A. 65-28a05(f), K.S.A. 65-28a05(i), and/or K.S.A. 65-28a05(o).

5. The Motion incorporates the allegations contained in the Petition.

6. The Administrative Law Judge/Presiding Officer concludes that the evidence demonstrates that there is cause to believe that Licensee presently has the inability to practice as

a physician assistant with reasonable skill and safety due to his repeated violations of the Kansas Physician Assistant Licensure Act. Licensee has repeatedly practiced without supervision, which directly places the health, safety and welfare of the public in imminent peril. In addition, Licensee has injected citizens of the State of Kansas with illegal Botox. Further, Licensee has violated the Kansas Consumer Protection Act. Additionally, Licensee conduct warranted a Temporary Restraining Order, and order Licensee to cease engaging in consumer transactions in the State of Kansas.

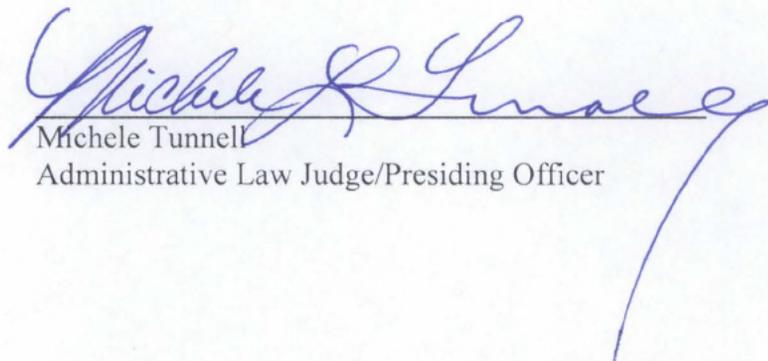
7. The Administrative Law Judge/Presiding Officer may also conclude there is cause to believe that Licensee may have violated K.A.R. 100-28a-8(d), K.S.A. 65-28a05(a), as further defined in K.A.R. 100-28a-8(e), K.S.A. 65-28a05(a), as further defined in K.A.R. 100-28a-8(n), K.S.A. 65-28a05(a), as further defined in K.A.R. 100-28a-8(r), K.S.A. 65-28a05(f), K.S.A. 65-28a05(i), and/or K.S.A. 65-28a05(o), and those violations are grounds to discipline Licensee's license.

8. The Administrative Law Judge/Presiding Officer finds that Licensee's continuation in active practice constitutes an immediate danger to the public health, safety or welfare and that such license should be emergently suspended on a temporary basis pursuant to K.S.A. 65-2838(c) and K.S.A. 77-536 until such time as further hearing proceedings can be held on the Motion.

IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS that Licensee's license is hereby emergently **SUSPENDED** on a temporary basis pending further hearing proceedings on the Motion for an *Ex Parte* Order of Suspension. Such suspension is effective when this Order is rendered.

IT IS SO ORDERED THIS 10th DAY OF JUNE, 2016, IN THE CITY OF
TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.

Any party may file a petition for judicial review of this *Ex Parte* Emergency Order of
Suspension of License with the appropriate District Court pursuant to K.S.A. 77-536 and K.S.A.
77-601, *et seq.*


Michele Tunnell
Administrative Law Judge/Presiding Officer

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the *EX PARTE EMERGENCY ORDER OF SUSPENSION OF LICENSE* by (X) placing the same in the U.S. mail, postage prepaid, () facsimile to the phone numbers listed below, and that the transmission was reported as complete and without error and that the facsimile machine complied with Supreme Court Rule 119(b)(3), or () hand delivery, on this the 10th day of June, 2016, to the following:

Joel Erskin, P.A.
Licensee
Confidential
Garden City, Kansas 67846

Zachary D. Schultz
Attorney for Licensee
302 Fleming, Suite 5
Garden City, Kansas 67846

Jane E. Weiler, 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

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

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


Staff Member