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BEFORE THE KANSAS STATE BOARD OF HEALING ARTS

KS State Board of Healing Arts

In the Matter of }
John Gorecki, M.D. }
 }
Kansas License No. 04-29019 }
_____ }

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Docket No. 10-HA-00095

FINAL ORDER

NOW this April 16, 2010 the above captioned matter comes before the Kansas State Board of Healing Arts (Board) on the respondent's Motion to Reconsider the Summary Order entered by the Board after the respondent and his counsel failed to timely appeal. The petitioner appears by and through Janith Lewis, Associate Litigation Counsel. The respondent, John Gorecki, appears in person and by his attorney Carol Ruth Bonebrake of the Law Office of Carol Ruth Bonebrake. There are no other appearances. The Board, being familiar with the file, after hearing the statements of counsel, after hearing the sworn testimony of the respondent and being duly apprised of the premises finds and concludes as follow:

WHEREUPON, the parties stipulate that the only issue before the Board is the respondent's Motion for Reconsideration of the Summary Order. The respondent withdraws all other motions before the Board. The Chair accepts the stipulation of the parties and allows the respondent to withdraw all other motions. The Motion for Reconsideration of the Summary Order of the Board is the only issue before the Board.

WHEREUPON, the Board heard the respondent's MOTION FOR RECONSIDERATION of the BOARD'S SUMMARY ORDER:

1. The disciplinary panel consisting of Dr. Counselman, Dr. Templeton, and Dr. Leinwetter recuse themselves.

2. The respondent stipulates to the facts contained in the Summary Order. The Board adopts the FINDINGS OF FACT as contained in the SUMMARY ORDER which is incorporated by reference.

3. The respondent failed to respond in a timely manner to the Board's Summary Order. The respondent was represented by counsel when the respondent failed to respond to the Board's summary order.

4. The Board's SUMMARY ORDER became a FINAL ORDER as a matter of law. See K.S.A. 77-537 and K.S.A. 77-542.

5. The Board denies the respondent's MOTION FOR RECONSIDERATION. The Board upholds the Board's SUMMARY ORDER which became a FINAL ORDER when the respondent failed to reply to the Board's summary order as a matter of law.

PLEASE TAKE 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 Kathleen Selzler Lippert, the Board's Interim Executive Director, at 235 SW Topeka Blvd., Topeka, KS 66603.

IT IS SO ORDERED.

DATED: April 8, 2010.


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

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing FINAL ORDER was served by depositing the same in the United States mail, first-class postage prepaid, this 28th day of April, 2010, addressed to:

John D. Gorecki
5614 Captains Court
Gainesville, GA 30504

Janith Lewis
Associate Litigation Counsel
Kansas State Board of Healing Arts
235 SW Topeka Blvd.
Topeka, KS 66603

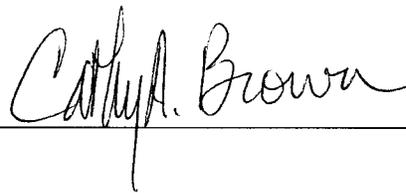
Carol Ruth Bonebrake
Law Office of Carol Ruth Bonebrake
107 SW 6th, Suite 210
Topeka, KS 66603

With the original going to:

Kathleen Selzler-Lippert
Interim Executive Director
235 SW Topeka Blvd.
Topeka, KS 66603

And a copy to:

Melissa Massey
Compliance Coordinator
Kansas State Board of Healing Arts
235 SW Topeka Blvd.
Topeka, KS 66603



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

KS State Board of Healing Arts

In the Matter of)
JOHN P. GORECKI, M.D.)
)
Kansas License No. 04-29019)
_____)

Docket No. 10-HA 00093

SUMMARY ORDER

NOW ON THIS 29th day of December 2009, this matter comes before Kathleen Selzler Lippert, Interim Executive Director, Kansas State Board of Healing Arts (“Board”), in summary proceedings pursuant to K.S.A 77-537.

Pursuant to K.S.A 77-542, this Summary Order shall become effective as a Final Order, without further notice, if no written request for hearing is made within fifteen (15) days of service.

Upon review of the agency record and being duly advised in the premises, the following findings of fact, conclusions of law, and order are made for and on behalf of the Board:

1. John P. Gorecki, M.D. (“Licensee”) was originally issued license number 04-29019 to practice medicine and surgery in the state of Kansas on February 10, 2001. Licensee’s license is active, having last been renewed on or about May 18, 2009.
2. Licensee’s last known mailing address is 5614 Captains Court, Gainesville, Georgia 30504.
3. During April and May 2009, Licensee was the medical director of Healing Waters Spa in Wichita, Kansas.

4. From April 22-May 10, 2009, an advertisement by Healing Waters for the Smart Lipo™ procedure, which appeared in the Wichita Eagle, stated that Smart Lipo was the “non-invasive alternative to liposuction.”
5. However, Smart Lipo is the brand name for laser-assisted liposuction and requires a small incision into the subcutaneous layer of the skin. It is a minimally invasive surgical procedure; it is not non-invasive.
6. K.S.A. 65-2836 states in pertinent part:

A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured or placed under probationary conditions, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

- (b) The licensee has committed an act of **unprofessional or dishonorable conduct** or professional incompetency

7. **Unprofessional conduct** is further defined by K.S.A. 65-2837(b)(1) and (12), which states in pertinent part:

As used in K.S.A. 65-2836, and amendments thereto, and in this section:

- (b) "**Unprofessional conduct**" means:

- (1) **Solicitation of professional patronage through the use of fraudulent or false advertisements, or profiting by the acts of those representing themselves to be agents of the licensee.**

- (12) **Conduct likely to deceive, defraud or harm the public.**

8. K.S.A. 65-2836 states in pertinent part:

A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured or placed under probationary conditions, or an application for a license or for reinstatement of a license may be denied

upon a finding of the existence of any of the following grounds:

(d) The licensee has used fraudulent or false advertisements.

9. **False advertisement** is further defined by K.S.A 65-2837(c) and (d), which states,

(c) “False advertisement” means any advertisement which is false, misleading or deceptive in a material respect. In determine whether any advertisement is misleading, there shall be taken into account not only representations made or suggested by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations made.

(d) “Advertisement” means all representations disseminated in any manner or by any means, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of professional services.

10. K.S.A. 65-2863a states:

The state board of healing arts, in addition to any other penalty prescribed under the Kansas healing arts act, may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for a violation of the Kansas healing arts act in an amount not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for the third violation and for each subsequent violation. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

11. Licensee violated K.S.A. 65-2836(b), as further defined by K.S.A 65-2837(b)(1) and (b)(12), and violated K.S.A 65-2836(d), as further defined by

K.S.A. 65-2837(c) and (d), when he allowed an advertisement to be disseminated claiming that Smart Lipo was a non-invasive substitute for liposuction.

12. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 24 authorized and directed Board counsel to seek resolution of this matter with a public censure and a fine.

IT IS, THEREFORE, ORDERED that Licensee's license is hereby PUBLICLY CENSURED for violating the Healing Arts Act and fined \$1000 due and payable within thirty days of the effective date of this Order.

PLEASE TAKE NOTICE that this is a Summary Order. A party to whom a Summary Order is issued may file a written request for a hearing pursuant to K.S.A. 77-542 within 15 days following service of the Summary Order. Such written request shall also state the legal and/or factual basis upon which the party opposes this Order. If a hearing is not requested, the Summary Order shall become effective as a Final Order of the Board upon expiration of the time for requesting a hearing. A written request for hearing must be addressed and mailed to Kathleen Selzler Lippert, Interim Executive Director, Kansas State Board of Healing Arts, 235 S. Topeka Blvd., Topeka, KS 66603.

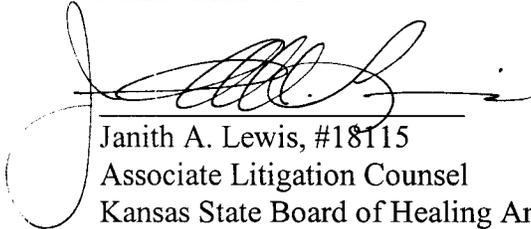
PLEASE TAKE NOTICE that upon becoming effective as a Final Order, this document shall be deemed a public record and be reported to any reporting entities authorized to receive such disclosure.

Dated this 29th day of December 2009.

Kansas State Board of Healing Arts


Kathleen Selzler Lippert
Interim Executive Director

PREPARED BY:


Janith A. Lewis, #18115
Associate Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603-3068
(785) 368-7257

CERTIFICATE OF SERVICE

I certify that the foregoing Summary Order was served this 29th day of December, 2009, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

John P. Gorecki, M.D.
5614 Captains Court
Gainsville, Georgia 30504

and a courtesy copy was mailed to:

David W. Steed, Esq.
Klenda, Mitchell, Austerman & Zuercher, LLC
1605 SW 37th Street
Topeka, Kansas 66611-2563

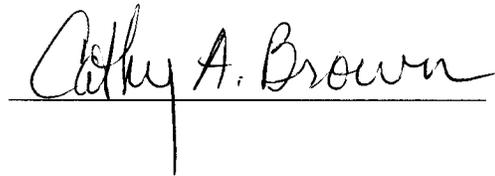
and copies were hand-delivered to:

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

Janith A. Lewis
Associate Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603

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

Kathleen Selzler Lippert
Interim Executive Director
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603

A handwritten signature in cursive script that reads "Cathy A. Brown". The signature is written above a horizontal line, with a vertical line extending downwards from the center of the horizontal line.