

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

In the Matter of)
STEWART GROTE, D.O.)
)
Kansas License No. 05-22108)
_____)

KSBHA Docket No. 14-HA00014

FINAL ORDER

NOW on this 13th day of February, 2015, comes before the Kansas State Board of Healing Arts (“Board”) the Motion for Termination of Suspension filed by Stewart Grote, D.O. (Licensee) in the above-captioned matter. Licensee appears in person and through counsel, Mark Lynch of Simpson, Logback, Lynch, Norris, P.A. Seth Brackman, Associate Litigation Counsel, appears on behalf of the Board.

In accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*, the Board hereby enters this Final Order in the above-captioned matter. After reviewing the agency record, hearing the arguments of the parties, receiving evidence, and being otherwise advised in the premises, the Board makes the following findings, conclusions and order:

1. Licensee is licensed to engage in the practice of osteopathic medicine and surgery in the State of Kansas, having been issued License No. 05-22108.
2. Licensee entered into a Consent Order with the Board in June of 2014, to resolve a pending disciplinary Petition alleging negligence, inappropriate prescribing, and inadequate medical record documentation with respect to Licensee’s evaluation and treatment of fourteen (14) patients.

3. The Consent Order imposed a suspension of Licensee's medical license for at least six (6) months; a \$5,000.00 fine; a three-year limitation prohibiting Licensee from prescribing controlled substances in Schedule II through IV; a three-year limitation prohibiting Licensee from supervising mid-level providers; a requirement for a clinical skills assessment at the Center for Personalized Education for Physicians ("CPEP"); and a requirement to follow CPEP's recommendations.

4. Licensee's suspension became effective June 19, 2014. Subsequently, Licensee self-reported to the Board that he mistakenly practiced on that date and treated thirty-two (32) patients. Licensee believed the suspension was supposed to be effective on June 20, 2014.

5. Licensee has paid the \$5,000.00 fine.

6. Licensee participated and completed a two-day assessment at CPEP in July of 2014. CPEP's Assessment Report for Licensee was submitted to the Board as Licensee's Exhibit D. **Confidential**
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7. **Confidential**
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10. **Confidential** CPEP developed a comprehensive Educational Intervention Program Educational Plan (“Educational Plan”) **Confidential**
Confidential The Educational Plan was submitted to the Board as Licensee Exhibit C.

11. On January 20, 2015, Licensee filed a Motion for Termination of Suspension (“Motion”), in which Licensee requested he be permitted to return to practice under the Consent Order’s limitations. Licensee affirmed that he would enter into CPEP’s Educational Plan and **Confidential** including limiting his patients to twenty (20) per day. Licensee also requested that his license suspension be terminated prior to his completion of all the nonclinical educational requirements in the Educational Plan. Lastly, Licensee proposed that he not provide inpatient care without first notifying the Board and that he would complete CPEP’s recommended Point of Care experience in inpatient care.

12. On February 3, 2015, Associate Litigation Counsel filed an Amended Response to Motion for Termination of Suspension (“Response”). The Response requested that Licensee’s suspension remain in place until completion of all of the nonclinical educational components of the Educational Plan. The Response also requested that Licensee be required to comply with **Confidential**
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13. The Response further discussed Licensee’s admitted practice for one day on his suspended license. The Response does not allege a violation of the Healing Arts Act and does not request further discipline. The Board concludes that, based on the particular facts in this matter, Licensee’s one day of practice after the suspension was in effect has no bearing in considering his motion to terminate the suspension.

14. The Consent Order does not condition termination of Licensee's suspension upon meeting specific requirements or standards. Licensee has shown the Board that he has undertaken the initial steps toward remediation of his clinical knowledge and skills, communication and documentation practices. The Board concludes that termination of the suspension is warranted once Licensee successfully completes certain nonclinical educational components of CPEP's Educational Plan in "Module A." Requiring completion of these components prior to Licensee engaging in patient care will ensure Licensee's investment in the educational process while still following the overall design of the Educational Plan, which contemplates interweaving the nonclinical and clinical education activities. The Board shall appoint a Board member with authority to grant termination of the suspension upon receipt of satisfactory evidence demonstrating Licensee has successfully completed the specified nonclinical components of the Educational Plan.

15. Confidential
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16. The Board further concludes that, with the exception of restricting the number of patients seen per day, **Confidential** for Licensee are either set forth in the Consent Order or generally incorporated into CPEP's Educational Plan. As Licensee has proposed, the Board concludes it is appropriate for Licensee to restrict the number of patients he sees each day to twenty (20) until further order of the Board.

17. **Confidential**
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18. The Board further concludes that, upon Licensee's completion of CPEP's Educational Plan and the Post-Education Evaluation, the Board may consider any additional findings and recommendations of CPEP to issue additional orders determined to be necessary to protect the public.

IT IS THEREFORE ORDERED that Licensee's suspension shall be terminated upon Licensee's submission of satisfactory documentary evidence from CPEP demonstrating his successful completion of the following components of "Module A" in CPEP's Educational Plan:

- A. Evidence-Based Self-Study components 1, 3 and 5. (See pages 11 and 12 of Educational Plan).
- B. Electrocardiogram Interpretation Activities components 1 and 2. (See page 12 of Educational Plan).

Board member, Kimberly Templeton, M.D. is hereby appointed to review the documentation from CPEP submitted by Licensee, and to issue a Journal Entry terminating Licensee's suspension if successful completion is satisfactorily demonstrated. Licensee shall submit CPEP's documentation to Dr. Templeton in care of the Board's General Counsel with a copy provided to Associate Litigation Counsel.

IT IS FURTHER ORDERED that once Licensee's suspension is terminated, Licensee shall be limited to evaluating and treating no more than twenty (20) patients per day until further order of the Board.

IT IS FURTHER ORDERED that Licensee shall not practice in an inpatient setting until further order of the Board. Upon notification to the Board that Licensee desires to provide inpatient care, the Board shall enter further orders necessary to allow Licensee to complete the Educational Plan's Point of Care experiences for the inpatient/hospital setting and to ensure public protection.

IT IS FURTHER ORDERED that, notwithstanding the specific exceptions set forth in this Final Order, the requirement set forth in paragraph 316 of the Consent Order to follow CPEP recommendations remains in effect. Licensee shall ensure that CPEP submits copies of all progress reports detailing Licensee's progress with his Educational Plan to: Compliance Coordinator, Kansas State Board of Healing Arts, 800 SW Jackson Street, Lower Level, Suite A, Topeka, Kansas 66612.

IT IS FURTHER ORDERED that Licensee shall complete a Post-Education Evaluation within two (2) months of completing his Educational Plan. Licensee shall ensure that CPEP submits a copy of the Post-Education Evaluation report to: Compliance Coordinator, Kansas State Board of Healing Arts, 800 SW Jackson Street, Lower Level, Suite A, Topeka, Kansas 66612.

IT IS FURTHER ORDERED that the prescribing and supervision limitation provisions in the Consent Order, as set forth in paragraphs 300 through 310, shall remain in effect for at least three (3) years from the date of approval of the Consent Order.

IT IS FURTHER ORDERED that all other provisions of the Consent Order not specifically modified herein shall remain in effect.

IT IS FURTHER ORDERED that the Board shall maintain jurisdiction over this matter to issue any Orders that are necessary and appropriate to protect the public in the circumstances.

IT IS SO ORDERED THIS 12th DAY OF MARCH, 2015, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.

Kimberly Templeton, M.D.

Kimberly Templeton, M.D.
Kansas State Board of Healing Arts

by *Keeli Stevens*

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, 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 foregoing **FINAL ORDER** was served this 12th day of March, 2015, by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Stewart R. Grote, DO
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Lansing, KS 66043

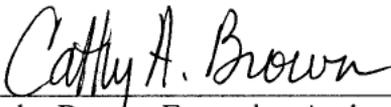
Mark Lynch
Simpson, Logback, Lynch, Norris, P.A
Commerce Plaza II
7400 W. 110th Street, Suite 600
Overland Park, KS 66210

And a copy was hand-delivered to the office of:

Seth K. Brackman, Associate Litigation Counsel
Anne Barker Hall, Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, KS 66612

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

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



Cathy Brown, Executive Assistant