

FILED *APB*

APR 23 2009

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

KS State Board of Healing Arts

In the Matter of)
)
KURT R. GUINDON, M.D.)
Kansas License No. 04-21448)
_____)

Docket No. 08-HA00177
OAH Docket No. 09-HA-0001

FINAL ORDER

NOW this 22nd day of April the above captioned matter comes before the Kansas State Board of Healing Arts (Board) on the respondent's Motion to Reconsider the Order assessing costs. The respondent, Kurt R. Guindon, M.D., appears by and through Trey Meyer of Skepnik, Fagan, Meyer and Davis. The Board appears by Kathleen Lippert, Litigation counsel. There are no other appearances.

WHEREUPON, the respondent set forth his reasons for a reduction of costs assessed to him. The respondent shows that he prevailed on one count of the two counts which were brought against him. The respondent points to the fact that a significant portion of the costs assessed against him were used to prosecute the count he prevailed upon. Dr. Guindon argues that he will be unable to pay the costs unless he becomes licensed; is allowed to practice medicine; and is then able to pay the costs assessed to him. The respondent argues that he should be assessed costs in the amount of \$4957.08.

WHEREUPON, Board staff sets forth its rationale for the Board assessing costs to the respondent in the amount of \$20,421.93. Board staff argues the motion for costs in the amount of \$20,421.03 was submitted to the Board prior to the hearing on the Final Order and the respondent did not object. Staff shows that it prevailed on one count. Staff also points to the Board the respondent did not file a petition for judicial review of the Board's decision.

WHEREUPON, board determined that it has the authority to assess costs pursuant to K.S.A. 65-2846(a) which states in pertinent part:

If the board's order is adverse to the licensee or applicant for reinstatement of license, costs incurred by the board in conducting any proceeding under the Kansas administrative procedure act may be assessed against the parties to the proceeding in such proportion as the board may determine upon consideration of all relevant circumstances including the nature of the proceeding and the level of participation by the parties.

WHEREFORE, the Board, after review of the file, the argument of counsel and being duly apprised of the premises finds as follows:

1. A Final Order in this matter has been entered. The respondent has not appealed to the District Court.

2. A Motion for Reconsideration has been filed with the Board.

3. The Board prevailed on Count I of the petition.

4. The respondent, Kurt Guindon, M.D., prevailed on Count II of the petition.

5. As the prevailing party, the Board is entitled to costs involved in the litigation of this matter "in such proportion as the board may determine upon consideration of all relevant circumstances.

5. The respondent shall pay costs in the amount of \$5,000 to the Board which is proportionate to the entire amount of costs paid by the Board to prosecute this case under the relevant circumstances.

6. The Board authorizes its Executive Director to collect the \$5,000 in costs from the respondent.

7. Upon successful negotiation of a payment schedule with the Executive Director the respondent is eligible for licensure with the Board in the regular course of business.

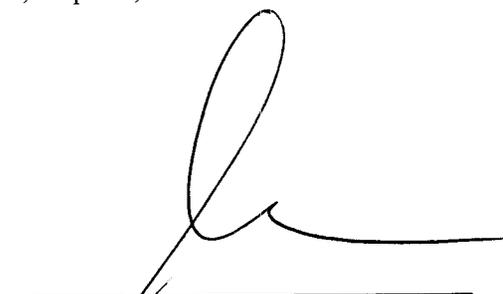
8. Failure by the respondent to successfully complete the terms of the payment of costs as scheduled will cause the respondent to be in violation of the terms of this order and subject to further discipline.

THEREFORE, the MOTION by the respondent to RECONSIDER the Board's Final Order is GRANTED.

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 Jack Confer, the Board's Executive Director, at 235 SW Topeka Blvd., Topeka, KS 66603.

IT IS SO ORDERED.

Dated this 22nd day of April, 2009



Jack Confer
Executive Director
Kansas State Board of Healing Arts
235 SW Topeka Blvd.
Topeka, KS 66603-3068
785/296-3680

CERTIFICATE OF SERVICE

I, hereby certify that a true copy of the foregoing Final Order was served this 24th day of April, 2009 by depositing the same in the United States Mail, first-class postage prepaid and addressed to:

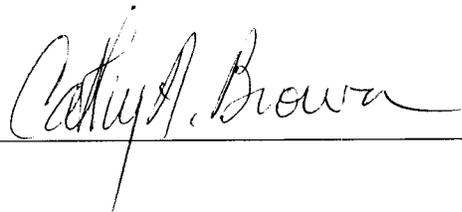
Trey Meyer
William Skepnek

Skepnek, Fagan, Meyer and Davis
900 Massachusetts St., Ste. 601
Lawrence, KS 66044

Kurt R. Guindon, MD
1723 Lydia Lane
Junction City, KS 66441

And a copy hand delivered to:

Kathleen Selzler Lippert
Litigation Counsel
Kansas State Board of Healing Arts
235 SW Topeka Blvd.
Topeka, KS 66603



Cathryn A. Brown