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AUG 03 2018

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

KS State Board of Healing Arts

In the Matter of)
ERIC HAWKINS, D.C.)
)
Kansas License No. 01-05030)
_____)

Docket No. 19-HA00006

JOURNAL ENTRY ON HEARING ON EMERGENCY SUSPENSION

An emergency hearing on whether the emergency suspension of Licensee’s license would remain in effect commenced at 1:00 p.m. on Wednesday, August 1, 2018, at the offices of the Kansas Board of Healing Arts (“Board”). Presiding Officer Myron Leinwetter, D.O., presided at the hearing. Eric Hawkins, D.C., (“Licensee”) appeared in person and by counsel, Diane Bellquist. Susan Gering and Todd Hiatt appeared as litigation counsel for the Board (“Litigation Counsel”). There were no other appearances. The hearing was transcribed by Appino & Biggs Reporting Service, Inc.

Licensee, being duly sworn, testified regarding the matters alleged in the Motion for Ex Parte Emergency Order of Suspension and for Emergency Proceedings (“Motion”). Licensee also presented the testimony of his [REDACTED], a chiropractor licensed in this state. All testimony offered was admitted into evidence.

Both parties presented evidentiary exhibits. All exhibits offered by the parties were admitted, including Petitioner’s Exhibits A through I, and Licensee’s Exhibits 1 through 3, the originals of which were retained by the court reporter.

The parties’ attorneys also made oral arguments to the presiding officer. Licensee and his counsel were not limited by the presiding officer in making oral arguments at the hearing.

After reviewing all evidence admitted at the hearing, including the testimony of witnesses at the hearing, and additionally based on review of the agency record in KSBHA Docket No. 19-

HA0006, including the Petition, Motion, and exhibits incorporated therein, the Presiding Officer, on behalf of the Board, ordered that the emergency suspension would remain in place.

The Presiding Officer advises that he would entertain a motion to lift the temporary suspension after Licensee completes the [REDACTED] evaluation(s) for which he has been referred, in order for the presiding officer to consider relevant additional evidence relating to Licensee's [REDACTED] safety to practice.

The Presiding Officer, on behalf of the Board, further finds and orders:

1. The evidence and testimony at the hearing provide additional support for the findings and conclusions made in the Ex Parte Emergency Order of Suspension ("Emergency Order"). The Board makes the findings and conclusions stated at paragraphs 1 through 5 of the Emergency Order, which are incorporated here by reference. These findings are based on the testimony and other evidence admitted at the hearing, including the testimony of Licensee at the hearing, and additionally based on review of the agency record in KSBHA Docket No. 19-HA00006, including the Petition, Motions, and exhibits incorporated therein. These findings are made in light of the policy considerations described in the Motion and the Board's mission of public protection as mandated by the Kansas legislature.
2. The presiding officer found a lack of credibility in Licensee's testimony at the hearing. This finding is based on the presiding officer's overall evaluation of Licensee's testimony in the context of the entire record and evidence presented, and his opportunity to observe the witness' testimony at the hearing. Without limiting this basis, the basis of the presiding officer's determination of the credibility of Licensee's testimony at this hearing includes, but is not limited to:

- a. In the view of the presiding officer, there are irregularities in Licensee's statements and testimony regarding his documentation, and the timing reflected in his documentation, of his treatment of Patient 1 on the date of the alleged incident. Further, the presiding officer notes that, as reflected in Exhibit F, these records were apparently not provided to Patient 1 when first requested by the patient approximately two weeks after the date of treatment. However, when Emporia Police executed a search warrant at Licensee's office approximately one week after the patient requested her records, the record for the date of treatment was produced. The police officer's report also reflects that Licensee's office manager made a comment "wondering why a record was there now that wasn't there before." The presiding officer found that his testimony regarding the timing of his charting of this patient interaction raised questions regarding the accuracy of Licensee's testimony and statements about his treatment of this Patient.
- b. Licensee was less than forthcoming regarding his purported lack of awareness of a basis for referral for [REDACTED] evaluation after that issue was raised at the hearing by his attorney. Exhibit E was presented in rebuttal to Licensee's initial testimony regarding this matter at the hearing. This Exhibit reflects a clear basis for such a referral, of which Licensee was clearly aware. It is highly unlikely that Licensee forgot about the incident described in Exhibit E. His testimony when initially questioned about this matter at the hearing was incomplete at best, and raises doubt in regard to the accuracy and completeness of his testimony at the hearing in general.
- c. Licensee's explanation of Patient 1's allegation that she observed that his penis was erect just before he embraced her was not provided to Emporia police when Licensee was first questioned about that allegation during a pre-arranged interview with Licensee and his legal counsel. Specifically, Exhibit F reflects that Licensee was asked if he was aware of any reason that could have caused Patient 1 to believe that she observed an erection. Exhibit F reflects that Licensee responded that he had no idea what could have caused her to believe that. However, in his written response to the Board (Exhibit D), his sworn affidavit (Exhibit C), and his testimony at the hearing, he explained that he carries a 4.5 inch metal rod in his pocket while treating patients at his office. In his written response, he stated "I can assure everyone that this is what she thought was an erection." However, the fact that he did not recall this explanation as a possibility when directly questioned about possible explanations at a pre-arranged interview, but later confidently asserted this as the clear explanation for Patient 1's observation, raises doubts as to whether he has been forthcoming in his statements and testimony. In the alternative, it tends to indicate that his memory in regard to this incident lacks reliability.
- d. Licensee's testimony in regard to Patient 1's allegation that he embraced her twice without invitation reflects, at best, lack of reliability in regard to his memory of the incident. In his affidavit, he specifically recalled hugging her

on at least one prior occasion. In his statements and testimony, he also purports to have clear and detailed recollection in regard to other aspects of his encounter with Patient 1 on the date in question. His purported lack of recollection regarding whether he hugged Patient 1 on the treatment table, and again firmly hugged her when she stood to leave, raises doubts as to his memory and the overall candor and completeness of his testimony.

3. Based on the facts, law, evidence, and policy described and incorporated above, there is adequate cause to believe that grounds exist for disciplinary action and Licensee's continuation in practice would constitute an imminent danger to public health and safety, pending further consideration and action by the Board subsequent to the referenced assessments.

THEREFORE, the license of Eric Hawkins, D.C., remains **SUSPENDED** pending the resolution of the Petition or other action by the Board.

This Journal Entry is entered on the 3rd day of August, 2018.

Kansas State Board of Healing Arts

/s/ Tucker Poling, KS #23266, for

Myron Leinwetter, D.O.
Presiding Officer

Kansas State Board of Healing Arts

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing Order was served this 3rd day of August, 2018 by depositing the same in the United States Mail, first-class postage prepaid, and emailing the same, addressed to:

Eric Hawkins, D.C.

[REDACTED]
Emporia, Kansas 66801
Licensee

Diane Bellquist

Joseph, Hollander & Craft, LLC
1508 S.W. Topeka Blvd.
Topeka, KS 66612-1887
Attorney for Licensee
dbellquist@josephhollander.com

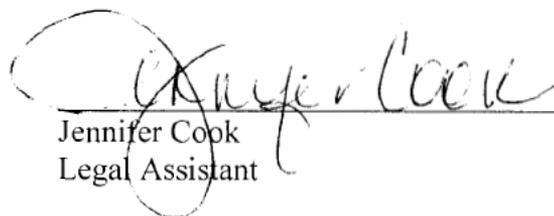
And copies were hand-delivered to:

J. Todd Hiatt, Associate Litigation Counsel
Susan R. Gering, Deputy Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson Lower Level, Ste A
Topeka, KS 66612

And a copy was given to:

M. Myron Leinwetter, D.O.
KSBHA Presiding Officer
Kansas State Board of Healing Arts

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



Jennifer Cook
Legal Assistant