

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED
DEC 16 2014
KS State Board of Healing Arts

In the Matter of)
BRADLEY L. HOLADAY, D.C.)
)
Kansas License No. 01-04387)
_____)

KSBHA Docket No. 15-HA00042

FINAL ORDER SUSPENDING LICENSE

NOW on this 11th day of December, 2014, comes on for conference hearing before the Kansas State Board of Healing Arts (“Board”) the Petition for discipline filed against the chiropractic license of Bradley L. Holaday, DC (“Licensee”). Seth Brackman, Associate Litigation Counsel, appears on behalf of the Petitioner Board. Licensee appears in person and *with counsel*, Gregory P. Forney of Shaffer, Lombardo and Shurin.

Pursuant to the authority granted to the Board by the Healing Arts Act, K.S.A. 65-2801 *et seq.*, and 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 statements and arguments of the parties, receiving exhibits into evidence, and being otherwise duly advised in the premises, the Board makes the following findings, conclusions and order:

1. Licensee is presently entitled to engage in the practice of chiropractic in the State of Kansas, having been issued License No. 01-04387 on approximately August 17, 1996.
2. From approximately May 2008 through August 2010, Licensee engaged in a consensual sexual relationship with a current chiropractic patient. The patient was discharged from treatment in August 2010.

3. **Confidential**
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4. On or about November 14, 2014, Petitioner filed a Petition for disciplinary action against Licensee's license alleging that, pursuant to K.S.A. 65-2836(b), Licensee's actions of entering into and maintaining a sexual relationship with a patient for which Licensee had an licensee-patient relationship constituted unprofessional conduct. The Petition also alleged that pursuant to K.S.A. 65-2836(b), Licensee's sexual relationship with his patient constituted unprofessional conduct, as further defined by K.S.A. 65-2837(b)(16), by committing acts of sexual abuse, misconduct, or other improper sexual contact, which exploits the licensee-patient relationship. The Petition additionally alleged that, pursuant to K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(12), Licensee's sexual relationship with a patient constituted conduct likely to deceive, defraud or harm the public. Lastly, the Petition alleged that pursuant to K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(6), Licensee willfully betrayed confidential information.

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7. At the Conference hearing before the full Board, Licensee admitted the wrongfulness of his conduct in having a sexual relationship with his chiropractic patient. Licensee denied having any having willfully divulged confidential information. Licensee stated that staff personnel had provided the confidential information to his wife without his knowledge.

8. The Board finds that Licensee does not dispute the material facts alleged in the Petition as they relate to his sexual conduct with his chiropractic patient.

9. Licensee offered an affidavit prepared by his chiropractic patient as mitigation. The Board admitted Licensee's Exhibit 1.

10. The Board concludes that Licensee's acts and conduct constitute a violation of K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(16).

11. The Board concludes the evidence presented did not demonstrate that Licensee violated K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(6).

12. The Board concludes the evidence presented did not demonstrate that Licensee violated K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(12).

13. The Board concludes the evidence presented demonstrated the following aggravating factors:

- a. Licensee's actions violated and took advantage of the fiduciary relationship with his patient for Licensee's own gratification. As such, Licensee's violations are particularly egregious;
- b. Licensee's sexual relationship with the patient occurred over a considerable amount of time, which indicates he had ample time to reconsider his actions and did not do so.
- c. The potential for harm to the patient's well-being was significant, though no specific evidence of such was presented; and
- d. Licensee's conduct has a detrimental effect on the public's trust in the profession of chiropractic.

14. The Board concludes that the evidence presented demonstrates the following mitigating factors:

- a. Licensee has admitted the wrongfulness of his conduct;
- b. Licensee has expressed regret for his actions; and
- c. Licensee has cooperated with the Board in the investigation and proceedings.

15. In contemplating the appropriate measure of discipline for Licensee's unprofessional conduct, the Board considers its public protection purpose to be of paramount importance. Punishing Licensee for his actions is also a necessary action due to the severity of Licensee's actions.

16. The Board concludes that Licensee's violation warrants suspension of his license to practice chiropractic in the State of Kansas for at least one (1) year, effective December 12, 2014.

17. The Board also concludes that Licensee shall report the HIPPA violation to the appropriate authorities and take sufficient action to ensure that such a violation does not occur again in the future.

18. The Board further concludes that upon any request by Licensee for termination of the suspension, Licensee shall have the burden to demonstrate sufficient evidence of rehabilitation to a degree where he is able to practice with reasonable skill and safety and warrant the public trust as a chiropractor. Confidential

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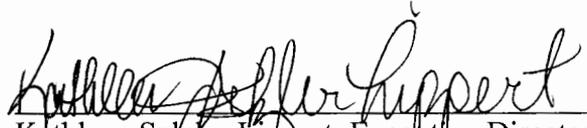
In exercising its discretion to determine whether or not to terminate the suspension, the Board may consider the factors set forth in *Vakas v. Kansas Bd. of Healing Arts*, 248 Kan. 589, 600, 808 P.2d 1355, 1364 (1991).

19. In the event Licensee is found to be sufficiently rehabilitated to warrant termination of the suspension, the Board may impose additional public protection sanctions for a reasonable period of time necessary to ensure Licensee's safety to practice.

IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS that Licensee's license to practice chiropractic is hereby **SUSPENDED** for a period of at least one (1) year, effective December 12, 2014, whereupon Licensee may request termination of the suspension.

IT IS FURTHER ORDERED that the Board shall maintain jurisdiction over this matter to issue future order(s) deemed necessary and appropriate in the circumstances.

IT IS SO ORDERED THIS 16 DAY OF DECEMBER 2014, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.


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

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, Kansas Board of Healing Arts, 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 above foregoing **FINAL ORDER SUSPENDING LICENSE** was served this 16th day of December 2014 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Bradley L. Holaday, DC
Confidential
Olathe, KS 66062

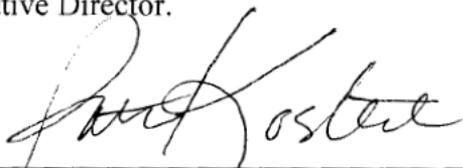
Gregory P. Forney
911 Main Street, Suite 2000
Kansas City, MO 64105

And a copy was hand-delivered to:

Seth Brackman, Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Katy Lenahan, 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.

for 

Cathy Brown, Executive Assistant