

**FILED**

SEP 03 2009

KS State Board of Healing Arts

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

<b>In the Matter of</b>	)	
	)	
<b>Abhishek Jain, M.D.</b>	)	
<b>Application for License</b>	)	<b>Docket No. 10-HA00005</b>
_____	)	

**FINAL ORDER**

**NOW**, on this 14th day of August, 2009, the above-entitled matter comes on before the Kansas State Board of Healing Arts (Board) on Applicant’s application for licensure to practice medicine and surgery in Kansas. Applicant appears in person, *pro se*. Kathleen Selzler Lippert, Litigation Counsel, appears for the Board. There are no other appearances.

WHEREUPON, Litigation counsel moves to amend her previously filed Response in Opposition to Application to Practice Medicine and Surgery. The Motion is granted.

WHEREUPON, the Board having the agency record before it, being duly advised in the premises and hearing the statements and arguments of the parties, FINDS and ORDERS as follows:

1. On or about March 2, 2009, Applicant submitted an application to practice medicine and surgery in Kansas. The application was deemed complete and filed on June 23, 2009.
2. Applicant disclosed that he was placed on probation during his PGY 3 residency program on February 14, 2008 (confidential)  
(confidential)

3. Applicant disclosed that he was placed on probation during his PGY 3 residency program on February 22, 2008 (confidential)  
(confidential)
4. Applicant disclosed that he was dismissed from his PGY 3 residency program on March 11, 2008 (confidential)
5. Applicant's application included a letter dated February 9, 2009, signed by Applicant which provided explanations for problems in his PGY 3 year residency. The February 9, 2009 letter included the following statements by Applicant:
  - a. Applicant asserted that his February 14, 2008 probation was based on arriving 10-15 minutes late on seven (7) different occasions over a period of 4 months between November 2007 and February 2008. Additionally, the probation was based on his failure to respond to communications on his electronic desktop in February 2008. Lastly, the probation was based on his failure to arrange for a replacement for the morning report he was scheduled to present on October 7, 2007.
  - b. Applicant asserted that his February 22, 2008 probation was based on alleged failure to provide proper clinical care and a lapse in clinical judgment related to a patient admitted on the night of February 14-15, 2008. Applicant asserted the allegations were unjustified and were withdrawn by the Reviewing Committee. Applicant declares that he "examined the patient in the ER" and "discussed the case with the attending physician."
6. The Board requested Applicant's disciplinary file from his PGY 3 residency program to discern the validity of Applicant's explanation set forth in his February 9, 2009 letter to the Kansas Board of Healing Arts. Applicant's disciplinary file from his PGY 3 residency program includes the following:

a. (confidential)

b. (confidential)

c. (confidential)

d. (confidential)

7. Applicant's February 9, 2009 letter to the Kansas Board of Healing Arts fails to disclose and misrepresents the grounds for the disciplinary action taken by the PGY 3 residency program.

Specific misrepresentations include:

a. (confidential)

i. (confidential)

ii. (confidential)

iii. (confidential)

b. (confidential)

i. (confidential)

ii. (confidential)

8. Pursuant to K.S.A. 65-2836, there are grounds to deny Applicant's application. Specifically, grounds to deny licensure include:

- a. Pursuant to K.S.A. 65-2836(b), there are grounds to deny licensure in that Applicant has committed an act of unprofessional or dishonorable conduct or professional incompetency.
- b. Pursuant to K.S.A. 65-2836(s), there are grounds to deny licensure in that sanctions or disciplinary actions have been taken against the Applicant by a peer review committee, health care facility, a governmental agency or department or a professional association or society for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.
- c. Pursuant to K.S.A. 65-2836, as further defined by K.S.A. 65-2837(a)(3), there are grounds to deny licensure in that Applicant has engaged in a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice the healing arts.
- d. There are grounds to deny Applicant's application in that he has committed fraud or misrepresentations in applying for an original license in violation of K.S.A. 65-2836(a).
- e. Applicant was terminated from a residency program for unprofessional conduct which constitutes a basis for denying Kansas licensure.

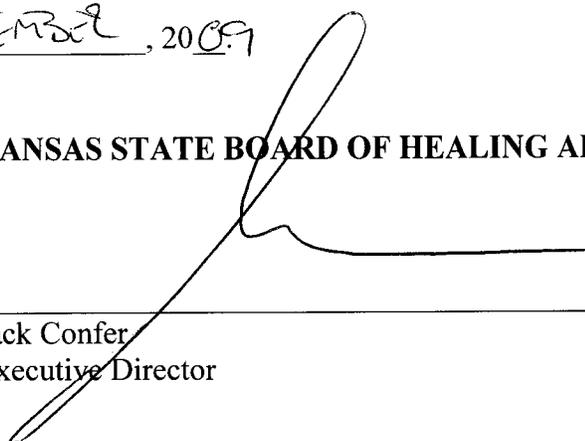
**IT IS THEREFORE ORDERED** that Applicant's application to practice medicine and surgery in Kansas is denied.

**PLEASE TAKE FURTHER 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 the Board's Executive Director at 235 SW. Topeka Blvd., Topeka, KS 66603.

DATED THIS 3<sup>rd</sup> day of SEPTEMBER, 2009

**KANSAS STATE BOARD OF HEALING ARTS**



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Jack Confer  
Executive Director

**Certificate of Service**

I certify that the foregoing Final Order was served this 3<sup>rd</sup> day of September, 2009, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Abhishek Jain, M.D.  
9 Old Campus Drive  
Portland, Maine 04103

and a copy was hand-delivered to:

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

And

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

And the original filed in with the Executive Director.

Cathy A. Brown