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MAY 01 2013

KS State Board of Healing Arts

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

**In the Matter of** )  
**AMAZAIR MCALLISTER, III, M.D.** )  
 )  
**Kansas License No. 04-28707** )  
\_\_\_\_\_ )

**KSBHA Docket No.13-HA00040**

**FINAL ORDER DENYING REINSTATEMENT OF LICENSURE**

NOW on this 12<sup>th</sup> day of April 2013, comes before the Kansas State Board of Healing Arts (“Board”) the application of Amazair McAllister, III, M.D. (“Applicant”) for reinstatement of his license to practice medicine and surgery in the State of Kansas. Applicant appears in person, and by and through his counsel Atif Abdel-Khaliq of McIntosh Law Offices. Jessica A. Bryson, Associate Litigation Counsel, appears on behalf of the Respondent Board.

Pursuant to the authority granted to the Board by 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, and being otherwise duly advised in the premises, the Board makes the following findings, conclusions and order:

1. Applicant was previously licensed to engage in the practice of medicine and surgery in the State of Kansas, having been issued License No. 04-28707 on approximately June 3, 2000.
2. On or about September 25, 2012, Applicant submitted an application for reinstatement of his Kansas license to practice medicine and surgery. Such application deemed complete and filed with the Board on January 14, 2013.
3. Applicant currently holds an active license to practice medicine and surgery in the State of Missouri.

4. On or about January 14, 2013, Associate Litigation Counsel filed a Response in Opposition to Application to Reinstate License to Practice Medicine and Surgery (“Response”). The allegations contained in the Response are incorporated by reference herein.

5. Between on or about January 24, 2002, and September 15, 2005, Applicant committed Health Care Fraud and was convicted of a Class C Felony.

6. Applicant’s Missouri medical license was placed on probation between March 24, 2003, and March 24, 2005, because, the Board found cause to discipline licensee based upon licensee entering into a settlement agreement with the Bureau of Narcotics and Dangerous Drugs (BNDD). The BNDD found that licensee had submitted to prescribe controlled substances that contained false information. Licensee issued prescriptions in Missouri on a terminated BNDD registration and failed to comply with BNDD record keeping requirements.

7. The Missouri Board of Healing Arts revoked Applicant’s license to practice medicine on April 30, 2007, based on his felony conviction relating to health care fraud.

8. On or about October 18, 2007, Applicant was excluded from the Medicare/Medicaid program for defaulting on a health education loan or scholarship obligations between 1997-2001.

9. In August 2011, Applicant participated in a Physician Assessment and Clinical Education (PACE) evaluation. Confidential

Confidential

10. Applicant's Missouri license, which was reinstated on November 18, 2011, is on probation for five (5) years because Applicant has not practiced medicine since at least September 2006. Based on Applicant's PACE evaluation, it was recommended that Applicant only begin practice with supervision and obtain continuing medical education.

11. K.S.A. 65-2836(c) requires that an application for licensure by a person who has been convicted of a felony "shall be denied unless a 2/3 majority of the board members present and voting on such application determine by clear and convincing evidence that such person will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust."

12. The Board concludes that once a felony conviction has been established by a preponderance of the evidence, Applicant bears the burden to present clear and convincing evidence of trustworthiness and rehabilitation in order to overcome the presumptive denial of license.

13. At the conference hearing, Applicant did not contest his felony conviction, the Missouri Board actions against his Missouri license, or his exclusion from the Medicare/Medicaid programs.

14. Applicant provided testimony regarding the remedial measures he has taken to prevent future incidents of fraud from reoccurring.

15. Applicant stated that he participated in the PACE program, is actively involved with his Church in coordinating and establishing a collaborative effort with the American Heart Association to address hypertension in the community, wishes to provide medical treatment to the underserved population in the Kansas City area, and acknowledges that he made a mistake.

16. The Board concludes that Applicant's conduct underlying his felony conviction was particularly egregious because it involved dishonesty, selfish motives, and was illegal. Furthermore, Applicant used the privilege of practicing medicine to commit a crime.

17. While Applicant has taken responsibility for his actions and has begun efforts toward rehabilitation, the Board concludes that Applicant's remedial efforts do not outweigh Applicant's egregious conduct.

18. The Board concludes that Applicant has failed to meet his burden to show by clear and convincing evidence that he does not pose a threat to the public in his capacity as a physician, and further, that Applicant has not shown that he has been sufficiently rehabilitated to warrant the public trust.


19. The Board further concludes that there are grounds to deny Applicant's application pursuant to K.S.A. 65-2836(j) in that Applicant has had his Missouri medical license revoked.

20. The Board further concludes that, pursuant to K.S.A. 65-2836(c), there are grounds to deny Applicant's application in that Applicant has been convicted of a felony relating to Health Care Fraud.

21. Based on Applicant's felony conviction and the other violations set forth above, the Board concludes that Applicant's application for licensure should be denied.

**IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS** that Applicant's application for reinstatement of license to practice medicine and surgery in the State of Kansas is hereby **DENIED**.

IT IS SO ORDERED THIS 1<sup>st</sup> DAY OF May, 2013, IN THE CITY OF TOPEKA,  
COUNTY OF SHAWNEE, STATE OF KANSAS.

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

**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, the Board's Executive Director, at 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

**CERTIFICATE OF SERVICE**

I, hereby certify that a true copy of the foregoing **FINAL ORDER DENYING REINSTATEMENT OF LICENSURE** was served this 1<sup>st</sup> day of May, 2013 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Amazair McAllister, III, M.D.  
6145 Troost Avenue  
Kansas City, MO 64110

Atif Abdel-Khaliq  
McIntosh Law Offices  
630 Minnesota Avenue Suite 230  
Kansas City, Kansas 66101

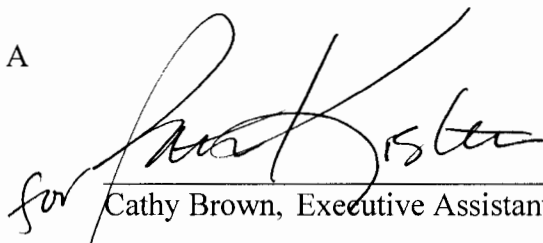
And a copy was hand-delivered to:

Jessica A. Bryson, 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:

Kathleen Selzler Lippert, Executive Director  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

  
for Cathy Brown, Executive Assistant