

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

KS State Board of Healing Arts

In the Matter of)
Fred McDonald)
)
Application for Kansas)
Naturopathic Doctor)
_____)

Docket No. 10-HA00145

FINAL ORDER
(Pursuant to K.S.A. 77-501 et seq.)

Pursuant to the authority granted to the Kansas State Board of Healing Arts (“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. Members of the Board serving on the Disciplinary Panel for this matter were recused from participation.

I. Findings of Fact

The Board has been shown the following facts:

1. Fred McDonald (“Applicant”) 1351 Stonebridge PKWY #106, Watkinsville, GA 30677, submitted an Application for Naturopathic Doctor (“Application”) in the State of Kansas on February 22, 2010.
2. Applicant stated in the Application and supporting documentation that he was licensed to practice naturopathic medicine in Washington, D.C. This license expired on February 28, 2010.
3. Applicant is also licensed as an acupuncturist in the State of Georgia.
4. Applicant’s application failed to list Applicant’s attendance and graduation from the Southern College of Naturopathic Medicine.

5. Southern College of Naturopathic Medicine is not a Kansas approved naturopathic program.
6. Applicant has not passed the Naturopathic Physician Licensing Examination (“NPLEX”).
7. Pursuant to K.S.A. 65-7206, Applicant requested licensure by endorsement or waiver of the education and examination requirements set forth in K.S.A. 65-7204 and K.S.A. 65-7205.
8. Applicant also sought licensure on the basis of reciprocity with Washington, D.C.

II. Applicable Law

K.S.A. 65-2801 states:

“Recognizing that the practice of the healing arts is a privilege granted by legislative authority and is not a natural right of individuals, it is deemed necessary as a matter of policy in the interests of public health, safety and welfare, to provide laws and provisions covering the granting of that privilege and its subsequent use, control and regulation to the end that the public shall be properly protected against unprofessional, improper, unauthorized and unqualified practice of the healing arts and from unprofessional conduct by persons licensed to practice under this act.”

K.S.A. 65-2836 states, in pertinent part:

“A licensee’s license may be revoked, suspended, or limited....or an application for a license may be denied upon a finding of the existence of any of the following grounds:

- (a) The licensee has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license.”

K.S.A. 65-7204 states, in pertinent part:

- (a) “An applicant applying for registration as a naturopathic doctor shall file a written application..., showing to the satisfaction of the board that the applicant meets the following requirements:

- (1) Education: The applicant shall present evidence satisfactory to the board of having successfully completed an educational program in naturopathy from an approved naturopathic medical college.
- (2) Examination: The applicant shall pass an examination as provided for in K.S.A. 65-7205 and amendments thereto.”

K.S.A. 65-7205 states, in pertinent part:

- (a) “Each applicant for registration under this act shall be examined by a written examination or examinations chosen by the board to test the applicant’s knowledge of the basic and clinical sciences relating to naturopathy, and naturopathy theory and practice, including the applicant’s professional skills and judgment in the utilization of naturopathic techniques and methods, and such other subjects as the board may deem useful to determine the applicant’s fitness to practice naturopathy...”

K.S.A. 65-7206 states, in pertinent part:

- (a) “The board may waive the examination or education requirements, or both, and grant registration
 - (1) to any applicant who presents proof of current authorization to practice naturopathy in another state, the District of Columbia or territory of the United States which requires standards for authorization to practice determined by the board to be equivalent to the requirements for registration under this act...”

III. Public Policy Statement

The public policy of regulating the practice of healing arts in the State of Kansas is set forth in K.S.A. 65-2801:

Recognizing that the practice of the healing arts is a privilege granted by legislative authority and is not a natural right of individuals, it is deemed necessary as a matter of policy in the interests of public health, safety and welfare, to provide laws and provisions covering the granting of that privilege and its subsequent use, control and regulation to the end that the public shall be properly protected against unprofessional, improper, unauthorized and unqualified practice of the healing arts and from unprofessional conduct by persons licensed to practice under this act.

IV. Conclusions of Law

Based upon the Findings of Fact enumerated in Paragraphs #1 through #8, the Applicable Law and the Public Policy Statement set forth above:

THE BOARD HEREBY CONCLUDES AS FOLLOWS:

9. Pursuant to the authority granted in K.S.A. 65-2801, the Board has been delegated the authority to issue medical licenses to qualified practitioners.
10. Applicant's Application failed to disclose his graduation from the Southern College of Naturopathic Medicine.
11. Applicant has not graduated from a college of naturopathy that is recognized by the State of Kansas pursuant to K.S.A. 65-7204.
12. Applicant has not passed the NPLEX as required by K.S.A. 65-7204 and K.S.A. 65-7205.
13. Applicant has not provided the Board with the requirements to practice as a naturopathic doctor in Washington, D.C. allowing the Board to review whether reciprocity is appropriate.
14. The Applicant has not provided the Board with sufficient information to determine whether licensure is appropriate in this matter.

IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS:

15. Pursuant to the authority granted to the Board by the Healing Arts Act, including but not limited to K.S.A. 65-7204 and K.S.A. 65-7205, Applicant's Application is hereby **DENIED**.

16. The Board shall maintain jurisdiction over this matter to issue any Order(s) deemed necessary and appropriate.

IT IS SO ORDERED THIS 28 DAY OF July, 2010, 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. 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 235 SW Topeka Blvd., Topeka, KS 66603.

CERTIFICATE OF SERVICE

I, hereby certify that a true copy of the foregoing Final Order was served this 29th day of June, 2010 by depositing the same in the United States Mail, first-class postage prepaid and addressed to:

Fred McDonald, ND
1351 Stonebridge PKWY #106
Watkinsville, GA 30677

And a copy was hand delivered to the office of:

Julia Mowers, Associate Litigation Counsel
Kansas State Board of Healing Arts
235 SW Topeka Blvd.
Topeka, Kansas 66603

The original filed with:

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



Cathy Brown
Executive Assistant