

EFFECTIVE AS A FINAL ORDER

DATE: 12/4/19

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NOV 14 2019

BEFORE THE BOARD OF HEALING ARTS OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of

Michael McDonald, P.A.
Kansas License No. 15-01641

Docket No. 20-HA 21033

SUMMARY ORDER

NOW ON THIS 14th day of November 2019, this matter comes before Tucker Poling, Interim Executive Director, Kansas State Board of Healing Arts ("Board"), in summary proceedings pursuant to K.S.A. 77-537.

Pursuant to K.S.A 77-537 and K.S.A. 77-542, this Summary Order shall become effective as a Final Order, without further notice, if no written request for a hearing is made within 15 days of service. Upon review of the agency record and being duly advised in the premises, the following findings of fact, conclusions of law, and order are made for and on behalf of the Board:

Findings of Fact

1. Michael McDonald ("Licensee") was issued License No. 15-01641 on or about January 1, 2014 and is and has been entitled to practice as a physician assistant in Kansas, having last renewed such license on January 31, 2019.

2. Licensee's last known mailing address to the Board is: **CONFIDENTIAL**
CONFIDENTIAL

3. Licensee's license to practice as a physician assistant in Kansas is currently Active and was Active during all times relevant to the facts set forth in this Summary Order.

4. On Licensee's most recent online license renewal, in answer to the question "Have you paid the annual surcharge to the KHCSF?" Licensee selected "Y".

5. Pursuant to its authority under 65-28a03(b), on May 15, 2019 and June 14, 2019 the Board requested Licensee provide proof of compliance with the Kansas Health Care Stabilization Fund ("KHCSF") requirements set forth in K.S.A. 40-3404. Licensee did not acknowledge or respond to either of these requests.

6. On August 2, 2019, it was confirmed with the KHCSF Licensee had not been compliant with KHCSF requirements since January 1, 2017.

7. On August 2, 2019, the Board sent additional correspondence requesting proof of compliance with the KHCSF, informing Licensee how he could become compliant, and informing him that failure to comply would result in discipline including a fine and indefinite suspension of his license.

8. Licensee did not respond to this request until October 2, 2019, and at that time did not provide the required proof of compliance.

9. On October 28, 2019, a representative of KHCSF informed the Board Licensee had reported to them he was in compliance with KHCSF requirements through a particular insurance company; that upon inquiry with that insurance company KHCSF Licensee was not one of its insured; and that KHCSF had requested Licensee provide proof of his insurance.

10. To date, KHCSF has received no response from Licensee regarding proof of insurance.

11. To date, Licensee has still not provided the Board with proof of compliance with KHCSF statutory requirements.

Applicable Law

12. Under the Kansas Physician Assistant Licensure Act, K.S.A. 65-28a03(b):

The board, prior to renewal of an active license, shall require the licensee to submit to the board evidence satisfactory to the board that the licensee . . . has paid the premium surcharges as required by K.S.A. 40-3404, and amendments thereto.

13. K.S.A. 40-3404 states:

In the case of a resident health care provider who is not a self-insurer, the premium surcharge shall be collected in addition to the annual premium for the basic coverage by the insurer The certificate of authority of any insurer who fails to comply with the provisions of this subsection shall be suspended pursuant to K.S.A. 40-222, and amendments thereto, until such insurer shall pay the annual premium surcharge due and payable to the board of governors.

14. Under K.S.A. 65-28a05(a), a license may be revoked, suspended or limited, or the licensee may be publicly censured or placed under probationary conditions for committing an act of unprofessional conduct.

15. K.A.R. 100-28a-8 defines "unprofessional conduct" in pertinent part as:

- (b) committing fraud or misrepresentation in applying for or securing an original, renewal, or reinstated license; or
- (e) willfully or repeatedly violating the Kansas Physician Assistant Licensure Act.

Conclusions of Law

16. The Board has jurisdiction over Licensee as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

17. The Board finds Licensee violated K.S.A. 65-28a05(a), as further defined by 100-28a-8(b) by committing fraud or misrepresentation in applying for or securing a renewal license

by misrepresenting on his online renewal form his compliance with the statutory KHCSF requirements set forth in K.S.A. 40-3404.

18. The Board finds Licensee violated K.S.A. 65-28a05(a), as further defined by 100-28a-8(e), by repeatedly violating the Kansas Physician Assistant Licensure Act in failing to provide proof of KHCSF compliance, as required by K.S.A. 65-28a03(b), despite multiple requests.

19. Based on the facts and circumstances set forth herein, the use of summary proceedings in this matter is appropriate, in accordance with the provisions set forth in K.S.A. 77-537(a), in that the use of summary proceedings does not violate any provision of law, and the protection of the public interest does not require the Board to give notice and opportunity to participate to persons other than Licensee.

IT IS HEREBY ORDERED that Licensee is **INDEFINITELY SUSPENDED** until Licensee provides proof of payment of the premium surcharges required under K.S.A. 40-3404.

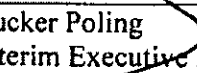
IT IS FURTHER HEREBY ORDERED that Licensee is assessed a **CIVIL FINE** in the amount of \$100.00 for violations of the Kansas Healing Arts Act. Such fine shall be paid to the "Kansas State Board of Healing Arts", in full, on or before January 15, 2020. All monetary payments, which shall be in the form of check or money order, relating to this Summary Order shall be mailed to the Board certified and addressed to:

Compliance Coordinator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level – Suite A
Topeka, Kansas 66612

PLEASE TAKE NOTICE that upon becoming effective as a Final Order, this document shall be deemed a public record and be reported to any reporting entities authorized to receive such disclosure.

Dated this 14th day of November, 2019

**KANSAS STATE BOARD
OF HEALING ARTS**



Tucker Poling
Interim Executive Director

FINAL ORDER 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 Tucker L. Poling, Interim 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 copy of the foregoing **FINAL ORDER** was served this 4th day of December 2019 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Michael McDonald, PA
CONFIDENTIAL

Licensee

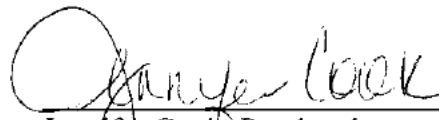
And a copy was hand-delivered to:

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

Licensing Administrator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Office of the General Counsel
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.


Jennifer Cook, Paralegal