

EFFECTIVE AS A FINAL ORDER

DATE: 1/28/2020

FILED

JAN 07 2020

AD

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

Kansas State Board of Healing Arts

In the Matter of

Roger I. Morrison, D.C.
Kansas License No. 01-03757

Docket No. 20-HA 00045

SUMMARY ORDER

NOW ON THIS 28th day of January, 2020, this matter comes before Tucker L. 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. Roger I. Morrison, D.C. ("Licensee") was issued License No. 01-03757 on December 19, 1985. Licensee last renewed his license on or about December 30, 2019. Licensee's license status is currently Active.
2. Licensee's last known mailing address to the Board is: CONFIDENTIAL
- CONFIDENTIAL
3. During all times relevant to the facts set forth in this Summary Order, Licensee held an Active license to practice as a chiropractor in the State of Kansas.

4. On or about May 15, 2019, a letter auditing Licensee for proof of malpractice insurance, continuing education and proof of compliance with the Kansas Health Care Stabilization Fund ("KHCSF") was sent to Licensee requesting that he provide the information by June 15, 2019.
5. On or about June 14, 2019, a second notice letter auditing Licensee for proof of malpractice insurance, continuing education and proof of compliance with the KHCSF was sent to Licensee requesting that he provide the information by June 28, 2019.
6. On or about June 27, 2019, Licensee provided proof of completion of the continuing education requirements, as well as proof of malpractice insurance coverage. Licensee did not provided proof of coverage with the KHCSF.
7. On or about August 1, 2019, a search of the KHCSF website showed Licensee was not currently in compliance with the KHCSF and had been out of compliance since February 2, 2019.
8. On or about November 14, 2019, the Kansas State Board of Healing Arts ("KSBHA") received an e-mail from the KHCSF showing Licensee was now compliance with the KHCSF for the period of September 21, 2019 through September 21, 2020.
9. Licensee was out of compliance with the KHCSF for a period of approximately seven and a half months (7.5) while holding an Active license to practice as a chiropractor in the State of Kansas.

Applicable Law

10. Under the Kansas Healing Arts Act, K.S.A. 65-2809(c),

The board, prior to renewal of a license, shall require an active licensee to submit to the board evidence satisfactory to the board that licensee is maintaining a policy of professional liability insurance as required by K.S.A. 40-3402, and amendments there to, and has paid the premium surcharges as required by K.S.A. 40-3404, and amendments thereto.

11. K.S.A. 40-3402 states:

(a) A policy of professional liability insurance approved by the commissioner and issued by an insurer duly authorized to transact business in this state in which the limit of the insurer's liability is not less than \$200,000 per claim, subject to not less than a \$600,000 annual aggregate for all claims made during the policy period, shall be maintained in effect by each resident health care provider as a condition of active licensure or other statutory authorization to render professional service as a health care provider in this state, unless such health care provider is a self-insurer. . .

(b) A nonresident health care provider shall not be licensed to actively render professional service as a health care provider in this state unless such health care provider maintains continuous coverage in effect as prescribed by subsection (a), except such coverage may be provided by a non-admitted insurer who has filed the form required by subsection (b)(1). This provision shall not apply to optometrists and pharmacist on or after July 1, 1991 nor to physical therapists on and after July 1, 1995.

(1) Every insurance company authorized to transact business in this state, that is authorized to issue professional liability insurance in any jurisdiction, shall file with the commissioner, as a condition of its continued transaction of business within this state, a form prescribed by the commissioner declaring that its professional liability insurance policies, wherever issued, shall be deemed to provide at least the insurance required by this subsection when the insured is rendering professional services as a nonresident health care provider in this state. Any nonadmitted insurer may file such a form.

(2) Every nonresident health care provider who is required to maintain basic coverage pursuant to this subsection shall pay the surcharge levied by the board of governors pursuant to subsection (a) of K.S.A. 40-3404 and amendments thereto, directly to the board of governors and shall furnish to the board of governors the information required in subsection (a)(1). . .

12. K.S.A. 40-3404(b):

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 and shall not be subject to the provisions of K.S.A. 40-252, 40-955 and 40-2801 et seq., and amendments thereto. The amount of the premium surcharge shall be shown separately on the policy or an endorsement thereto and shall be specifically identified as such. Such premium surcharge shall be due and payable by the insurer to the board of governors within 30 days after the annual premium for the basic coverage is received by the insurer. Within 15 days immediately following the effective date of this act, the board

of governors shall send to each insurer information necessary for their compliance with this subsection. 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. In the case of a nonresident health care provider or a self-insurer, the premium surcharge shall be paid upon submitting documentation of compliance with K.S.A. 40-3402, and amendments thereto.

13. Under K.S.A. 65-2836, a license may be revoked, suspended or limited, or the licensee may be publicly censured or placed under probationary conditions, upon a finding of the existence of any of the following grounds:

(z) The licensee has failed to pay the premium surcharges as required by K.S.A. 40-3404.

Conclusions of Law

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

15. The Board finds that Licensee violated K.S.A. 65-2836(z), in that Licensee has failed to pay the premium surcharges as required by K.S.A. 40-3404, and further required by K.S.A. 65-2809.

16. 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 assessed a **CIVIL FINE** in the amount of **\$500.00** for violations of the Kansas Healing Arts Act. Such fine shall be paid to the "Kansas State

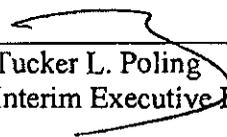
Board of Healing Arts," in full, on or before April 15, 2020. All monetary payments, which shall be in the form of check or money order, relating to this Summary Order shall be mailed to the Board certified and addressed to:

Compliance Coordinator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level – Suite A
Topeka, Kansas 66612
KSBHA_compliancecoordinator@ks.gov

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 26 day of January 2020.

**KANSAS STATE BOARD
OF HEALING ARTS**


Tucker L. 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 28th day of January, 2020 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Roger I. Morrison, D.C.
CONFIDENTIAL

And a copy was hand-delivered to:

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

Meghan D. Markey
Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Compliance Coordinator
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.

Tucker Poling
Interim Executive Director
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612



Jennifer Cook
Paralegal