

**FILED** CAB

DEC 16 2010

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

**KS State Board of Healing Arts**

In the Matter of )  
**Percy Myers, M.D.** )  
Kansas License No. 04-18010 )  
\_\_\_\_\_ )

Docket No. 10-HA00079

**FINAL ORDER**

NOW on this 15 day of Dec, 2010, the above-captioned matter comes before the Kansas State Board of Healing Arts ("Board"), on the motions to review the Initial Order of the Presiding Officer made by Dr. Percy Myers, M.D. and the Board. After review and due consideration of the evidence and arguments presented, including the Initial Order, the Board hereby accepts and adopts the Initial Order as a Final Order and incorporates, in their entirety, the Findings of Fact, Policy, and Conclusions of Law of the Initial Order as set forth below into this Final Order:

**Findings of Fact**

1. Dr. Percy C. Myers, M.D. ("Licensee"), (confidential) Topeka, Kansas 66610, has been licensed to practice medicine and surgery in the State of Kansas since February 1, 1979.
2. Licensee submitted an application for renewal on June 29, 2009.
3. Pursuant to the application renewal, Licensee certified that documentation of the required fifty (50) hours of continuing education would be maintained for three (3) years and would be produced to the Board upon request.
4. Licensee also certified that the rules regarding professional liability insurance had been read and that compliance had been achieved and that documentation of such compliance would be provided to the Board upon request.

5. Licensee was randomly selected to provide verification of compliance with the continuing education and professional liability insurance requirements on August 15, 2009. The letter requesting verification stated the documentation must be provided no later than September 20, 2009.
6. Licensee did not provide the requested documentation by September 20, 2009 and a second letter was sent by certified mail on September 23, 2009, requesting documentation.
7. The certified letter was returned on October 13, 2009, after three attempts at delivery by the United States Postal Service.
8. On October 13, 2009, a second letter was sent by certified mail and was accepted on October 16, 2009 by an individual on behalf of Licensee.
9. On December 1, 2009, the Board received 26.75 hours of Category I continuing education hours which had been previously received by the Board in connection with an investigation. The Licensee remained 23.25 hours short of Category I or Category II hours following this submission.
10. The Board alleged at hearing that Licensee's failure to provide documentation of the continuing education hours and professional liability insurance constituted a violation of K.S.A. 65-2836(k) and K.S.A. 65-2836(r).
11. Licensee submitted a January 8, 2009 letter which stated he had completed seventeen (17) additional hours of Category I continuing education credits. Licensee also indicated he read medical journals on a monthly basis.
12. Licensee did not provide documentation to support his assertion that he had read the journals.

13. Licensee's letter also stated he could not obtain documentation of professional liability insurance due to a policy of the State of Illinois, who was his employer at the time.
14. Licensee submitted additional continuing education hours on August 19, 2010 which satisfied the number of continuing education hours required.

### **Applicable Law**

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

A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured or placed under probationary conditions, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

(k) The licensee has violated any lawful rule and regulation promulgated by the board or violated any lawful order or directive of the board previously entered by the board.

(r) The licensee has failed to furnish the board, or its investigators or representatives, any information legally requested by the board.

K.A.R. 100-15-5 states, in pertinent part:

(a)(1) Each person who is licensed to practice a branch of the healing arts and who is required to submit proof of completion of continuing education as a condition to renewing a license shall certify, on a form provided with the license renewal application, one of the following:

(A) During the 18-month period immediately preceding the license expiration date, the person completed at least 50 credits of continuing education, of which at least 20 credits shall be in category I and the remaining credits in category II.

(B) During the 30-month period immediately preceding the license expiration date, the person completed at least 100 credits of continuing education, of which at least 40 credits shall be in category I and the remaining credits in category II.

(C) During the 42-month period immediately preceding the license expiration date, the person completed at least 150 credits of continuing education, of which at least 60 credits shall be in category I and the remaining credits in category II.

### **Policy**

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.

### **Conclusions of Law**

15. Licensee is licensed to practice medicine and surgery in the State of Kansas and has been so licensed since February 1, 1979.
16. Licensee was randomly selected to provide verification of compliance with continuing education requirements and professional liability insurance on August 15, 2009.
17. A letter was mailed to Licensee requesting the information be provided no later than September 20, 2009.
18. Licensee did not provide the information by the September 20, 2009 deadline.
19. On September 23, 2009, a second letter was sent requesting verification of compliance by October 20, 2009. The September 23, 2009 letter was sent by certified mail. The September 23, 2009 letter was returned after three delivery attempts on October 13, 2009.
20. On October 13, 2009, a second notice letter was sent by certified mail.
21. On October 16, 2009, the second notice letter was accepted by an individual on behalf of Licensee.
22. On December 1, 2009, the Board received 26.75 hours of Category I continuing education which had been previously submitted during an investigation.

23. Licensee submitted seventeen (17) hours of Category I credit on January 8, 2010.
24. Licensee submitted additional continuing education hours on August 19, 2010 which satisfied the number of continuing education hours required.
25. Licensee did not submit proof of professional liability insurance to the Board as requested.
26. The Licensee's submission of documentation of continuing education hours was not provided within the timeframe set forth for submission by the Board.
27. The Licensee's failure to provide the required verification documentation within the timeframe set forth by the Board constitutes violations of K.S.A. 65-2836(k) and K.S.A. 65-2836(r) as set forth above.

**IT IS HEREBY ORDERED THAT:**

28. Licensee shall pay an administrative penalty in the amount of five hundred dollars and no cents (\$500.00) for the above-stated violations of K.S.A. 65-2836(k) and K.S.A. 65-2836(r).
29. Licensee is further ordered to pay the costs associated with the formal hearing in the amount of three hundred thirty seven dollars and no cents (\$337.00).
30. Licensee is ordered to provide the Board with signed documentation of his current mailing address and is further ordered to notify the Board of any change to his address within thirty (30) days pursuant to K.S.A. 65-28,126.
31. All evidence and testimony presented at the formal hearing on this matter are hereby incorporated by reference into this Order.

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

IT IS SO ORDERED THIS 15 DAY OF Dec, 2010, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.

  
Kathleen Selzler Lippert  
Executive Director

### 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 16<sup>th</sup> day of December, 2010 by depositing the same in the United States Mail, first-class postage prepaid and addressed to:

Dr. Percy Myers, M.D.  
(confidential)  
Topeka, Kansas 66610

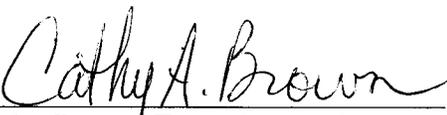
Dr. Percy Myers, M.D.  
State of Illinois  
1201 S. Main  
Jacksonville, IL 02650

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.  
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Katy Lenahan, Licensing Administrator  
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