

EFFECTIVE AS A FINAL ORDER

DATE: 10/11/2018

FILED
SEP 18 2018

BV

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

KS State Board of Healing Arts

In the Matter of

**Daniel Njingeh, M.D.
Kansas License No. 04-40353**

Docket No. 19-HA 00027

SUMMARY ORDER

NOW ON THIS 18 day of September 2018, this matter comes before Kathleen Selzler Lippert, 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. Daniel Njingeh ("Licensee") was issued License No. 04-40353 on September 1, 2017 and is and has been entitled to engage in the practice of medicine and surgery in Kansas, having last renewed his compact license as Active on July 31, 2018.
2. Licensee's last known mailing address to the Board is: [REDACTED] Sioux Falls, South Dakota 57108.
3. Licensee's license to practice medicine and surgery in Kansas is currently Active.
4. During all times relevant to the facts set forth in this Summary Order, Licensee held an Active license to practice medicine and surgery in Kansas.

5. On December 20, 2017 and July 27, 2018, the Board requested Licensee to provide proof of compliance with the Kansas Health Care Stabilization Fund (“KHCSF”), as required by K.S.A. 40-3404. The Board included instructions on how to contact KHCSF and warned that a failure to provide proof of compliance may result in a fine or suspension of Licensee’s license to practice medicine and surgery in Kansas.

6. On or about August 13, 2018, Board Deputy Litigation Counsel, Susan Gering, again requested Licensee to provide proof of compliance with KHCSF, with instructions on how to submit the proper forms for compliance. The deadline to submit the requested information was extended to August 20, 2018.

7. On or about September 5, 2018, Licensing staff contacted Licensee stating that he needed to provide proof of his malpractice insurance and proof of compliance with the KHCSF by the end of day for September 6, 2018.

8. On or about the same day, Licensee replied back stating he had “been trying for the last 6 months to comply but this [was] confusing[.] Last week I received my application and the check that I submitted. I have sent proof of my malpractice multiple times[.]”

9. On or about September 6, 2018, Licensing staff emailed Licensee telling him he needed to contact KHCSF and let them know the Board needed proof of compliance. Licensee was further told he would need to fill out the forms and pay the surcharge payment to the fund.

10. On or about the same day, the Board forwarded the correspondence with Licensee to KHCSF employee and Director of Compliance, Lori Anderson. Ms. Anderson responded to Board staff indicating Licensee did not submit a nonresident application, COI, and surcharge to KHCSF.

Further, Ms. Anderson stated that TDC Specialty Insurance Company is not admitted to write in Kansas and they will not sign the Declaration of Compliance form they have been sent.

11. As of September 6, 2018, Ms. Anderson stated Licensee was not compliant with KHCSF.

12. As of September 10, 2018, Licensing staff again noted that Licensee was not yet compliant with KHCSF.

13. As of September 14, 2018, Licensee failed to provide proof of compliance with KHCSF to the Board.

Applicable Law

14. 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.”

15. K.S.A. 40-3402(a) states:

“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. . .”

16. 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:

(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.

(y) The licensee has failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a, and amendments thereto.

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

Conclusions of Law

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

18. The Board finds that Licensee violated K.S.A. 65-2836(k) in that Licensee has violated a lawful rule and regulation promulgated by the Board in his failure to meet the requirements for KHCSF compliance as required in K.S.A. 65-2809.

19. The Board finds that Licensee violated K.S.A. 65-2836(y), in that Licensee has failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a and amendments thereto, and further required by K.S.A. 65-2809.

20. 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.

21. 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 either Licensee changes his status from Active to Inactive or Exempt, or until such time he obtains and maintains a policy of professional liability insurance as required by K.S.A. 40-3402 and 40-3403a, and provides proof of payment of premium surcharges required under K.S.A. 40-3404.

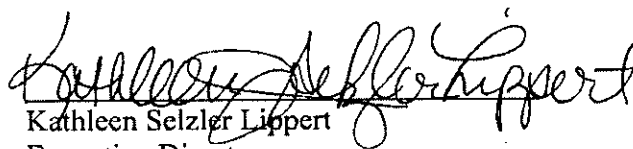
IT IS FURTHER HEREBY ORDERED that Licensee is assessed a **CIVIL FINE** in the amount of \$500.00 for violations of the Kansas Healing Arts Act. Such fine shall be paid to the "Kansas State Board of Healing Arts", in full, on or before October 31, 2018. All monetary payments, which shall be in the form 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 18 day of September 2018.

**KANSAS STATE BOARD
OF HEALING ARTS**


Kathleen Selzler Lippert
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 Kathleen Selzler Lippert, 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 11th day of October, 2018 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

DANIEL NJINGEH, MD
[REDACTED]
Sioux Falls, SD 57108

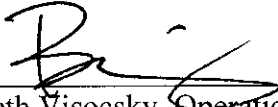
And a copy was hand-delivered to:

M. Katie Baylie, 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.



Beth Visocsky, Operations Manager