

EFFECTIVE AS A FINAL ORDER

DATE: 3/16/16

FILED
FEB 09 2015
OAB
KS State Board of Healing Arts

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

In the Matter of)	
)	Docket No. 16-HA00007
Frederick T. Okie, M.D.)	OAH No. 16HA0002
Kansas License No. 04-32209)	

INITIAL ORDER

Statement of the Case

1. Frederick T. Okie, M.D. ("Licensee") last known mailing address to the Board is: **Confidential**
Confidential Woodstock, Maryland 21163.
2. Licensee is or has been entitled to engage in the practice of medicine and surgery in the State of Kansas, having been issued original and permanent license No. 04-32209 on or about December 2, 2006. Licensee's license is Cancelled – Failure to Renew as of June 30, 2015.
3. On July 23, 2015, Petitioner filed a Petition for disciplinary action against Licensee's license.
4. At all times set forth in the Petition, Licensee held an active and current license to engage in the practice of medicine and surgery in the State of Kansas.
5. A Prehearing Conference was held on or about September 11, 2015, at 9:00 A.M., at the Board of Healing Arts. Licensee, Petitioner, and the Administrative Law Judge/Presiding Officer were in attendance. At that time, Licensee was told that he had an obligation to comply with the deadlines and that this was a serious matter.
6. On or about September 17, 2015, a Prehearing Order and Notice of Hearing was filed setting deadlines for the parties and placing the parties on notice that "pursuant to K.S.A. 77-516(c)(8) and K.S.A. 77-520, any party who fails to attend or participate in a hearing or any stage of an administrative proceeding may be held in default."
7. The Prehearing Order and Notice also stated that the parties were to engage in written discovery pursuant to Chapter 60 of the Kansas Statutes Annotated (K.S.A.) with discovery to be completed by January 15, 2016.
8. The trial is scheduled to occur on March 7-8, 2016, at 9:00 a.m.
9. Licensee was properly served a subpoena to appear at his deposition on December 18, 2015, at 9:00 a.m., and he failed to appear at that deposition. In addition, Licensee failed to provide a copy of his responses to Petitioner's First Interrogatories to Respondent, and failed to provide a copy of his expert witness disclosure to Petitioner.

10. Pursuant to the September 17, 2015, Prehearing Order and Notice of Hearing, a party who fails to attend or participate in a prehearing conference can be held in default. Because Licensee failed to attend or participate in a hearing or any stage of this administrative proceeding, he is in default.
11. Based on Licensee's failure to attend or participate in this administrative proceeding, Petitioner filed a Motion for Default Order on December 23, 2015.
12. On December 29, 2015, the Presiding Officer/Administrative Law Judge issued an order requiring Licensee to file a response to the motion to compel and the motion for default order by January 15, 2016. Failure to respond would result in the motion being deemed uncontested.
13. Licensee failed to respond by the January 15, 2016, deadline.
14. On January 22, 2016, the Presiding Officer/Administrative Law Judge entered a Proposed Default Order against Licensee. A Notice of Proposed Default Order and Proposed Default Order ("Default Order") was mailed to Licensee and Board Counsel that same day. The document was subsequently filed with the Board on January 25, 2016.
15. The Default Order stated it becomes effective ten (10) days after it was mailed. Licensee was to request the proposed Default Order be vacated within the ten (10) days.
16. Further, the Default Order stated that if the Default Order "becomes effective, the petitioner shall submit a proposed Initial Order for issuance by the presiding ALJ based upon the uncontroverted allegations contained in its petition file on July 23, 2015."

Findings of Fact

17. On or about February 25, 2013, Patient 1, a twenty-six (26) year old pregnant female with a history of four (4) prior pregnancies resulting in four (4) prior premature births, presented to the Labette Health Emergency Department with complaints of vaginal bleeding and cramping. Patient 1 was documented to have a history of hypertension and an ultrasound confirmed an intrauterine pregnancy.
18. Patient 1 was referred and scheduled to see Licensee for follow-up care the following morning, but failed to keep the appointment.
19. On or about May 30, 2013, Licensee saw Patient 1 for an appointment. Licensee designated the appointment as Patient 1's first prenatal visit. At the time of the appointment, Patient 1's blood pressure was documented at 198/154.
20. That same day, Licensee sent Patient 1 for a sonogram and lab tests with a follow-up appointment to be scheduled in two (2) weeks. Lab results showed Patient 1 had a

urinalysis protein of 100, but there is no documentation showing Licensee reviewed the results or that Patient 1 was contacted with the results.

21. On or about June 4, 2013, Patient 1 returned to Licensee's office. Patient 1's blood pressure was documented as 202/136.
22. Patient 1 was subsequently admitted to Labette Health that same day at approximately 1700 with hypertension and severe headache. Licensee's admission diagnosis is documented as severe chronic hypertension, single intrauterine pregnancy at twenty-nine (29) weeks.
23. Nursing notes for Patient 1's admission to Labette Health document that Patient 1 arrived from Licensee's office for a non-stress test and labs. Nursing staff further documented that Patient 1 was experiencing a severe headache with the right side of her head feeling numb and her blood pressure was documented at 208/129.
24. Licensee initially ordered pregnancy induced hypertension lab testing, but canceled the ordered labs. Patient 1 was given "400mg po bid" of Labetalol with the first dose administered at approximately 1737. Two (2) non-stress tests were also completed.
25. After the administration of Labetalol, Patient 1's blood pressure slowly dropped with systolic measurements in the 160's and diastolic measurements in the 90-100's.
26. At 1920, hospital staff informed Licensee of Patient 1's high blood pressure and requested medication and parameters. Licensee instructed staff that Patient 1 was to be left alone and to do nothing different.
27. At 2000, orders were obtained by staff to administer Tylenol for Patient 1's continued headache. However, the Tylenol was not effective as Patient 1 continued to complain of a severe headache.
28. No new orders were issued for the remainder of June 4, 2013, but staff continued to document Patient 1's blood pressure and fetal heart tones. Patient 1's systolic measurements remained between 170-220s and diastolic measurements remained in the 100s.
29. On or about June 5, 2013, at 0447 Patient 1's fetal heart tones were documented to have decreased to 125 for approximately 140 seconds, and then returned to baseline. At 0538, Patient 1 was given 400mg po of Labetalol.
30. At 0855, Patient 1 was documented as resting and denied having a headache or pain.
31. At 1013, Licensee saw Patient 1 and ordered a twenty-four (24) hour urine protein.
32. At 1525, Patient 1 again complained of a constant, dull headache. Patient 1 was given 1000mg of Tylenol orally and later complained that she was feeling "shaky all over."

33. At or around 1603, staff notified Licensee of Patient 1's status including the fact that Patient 1 had an elevated blood pressure in spite of Labetalol, asking whether Patient 1 should be on bed rest, Patient 1's complaint of headache and shakiness, limited voiding, and whether these issues could be related to preeclampsia. Licensee gave no new orders or diagnoses and stated that he would be in to the OB floor in approximately an hour.
34. At 1659, Patient 1 was documented with continued complaint of a headache when she moved her eyes.
35. At 1720, Licensee was in to see Patient 1 and again wrote orders reiterating Patient 1's diagnosis of severe chronic hypertension, and ordered an EKG, echocardiogram, ophthalmology consult, continued twenty-four (24) hour urine protein, 20mg Labetalol IV bolus with a repeated dose of 40mg IV if Patient 1's blood pressure was greater than 160/110 after ten (10) minutes, and to continue 400mg Labetalol orally twice a day.
36. At 1740, Licensee dictated Patient 1's history and physical for her admission. Licensee documented Patient 1 had severe hypertension; had 100mg/dl of proteinuria; had no headaches; and had "[n]o sign of preeclampsia at this time."
37. Patient 1 received an additional 80mg of Labetalol IV at 2057 and her blood pressure remained in the severe level above 160/110, only dropping briefly to 185/115 before returning to the 200's systolic and 120's to 130's diastolic.
38. On or about June 6, 2013, Patient 1's blood pressure remained elevated despite receiving Labetalol 40mg IV at 0057, 20mg IV at 0200, and 40mg IV at 0412.
39. Licensee was updated on Patient 1's blood pressure status, but was not in to see Patient 1 until 1035. At that time, Licensee ordered Labetalol 400mg by mouth every eight (8) hours.
40. Patient 1's previously ordered twenty-four (24) urine protein result was 1953 mg/dl. Licensee was notified by staff of Patient 1's result and is documented as saying Patient 1's urine protein was good.
41. Patient 1's blood pressure continued to run in the 210s-220s systolic and 120s-130s diastolic.
42. At 1837, Licensee dictated a progress note for Patient 1 documenting Patient 1 as having severe chronic hypertension. Licensee also noted Patient 1 was on Labetalol 400mg TID and that Patient 1's blood pressure remained high. Licensee planned to continue Patient 1's Labetalol.
43. Patient 1's blood pressure remained elevated and at 2158 Licensee was notified of the situation and Patient 1's complaint of a headache. No new orders were given.

44. At 2222, Licensee called to check on Patient 1's condition. Patient 1 continued to complain of a headache and had a documented blood pressure of 221/129.
45. At 2225 Licensee ordered "Hydralazine 10mg SIVP over 2min x 1 Now" for Patient 1's symptoms.
46. On or about June 7, 2013, at 0108, staff again contacted Licensee with Patient 1's high blood pressure and headache. Licensee gave orders for repeat Hydralazine 10mg SIVP and for Patient 1 to be started on Magnesium Sulfate. Twenty (20) minutes later Licensee ordered the Magnesium Sulfate to be held.
47. Patient 1 continued to have a headache and at 0142 was documented to complain of blurry vision. Staff notified Licensee of Patient's symptoms and continued headache.
48. At 1734, the fetal heart rate dropped to sixty (60) for two and a half minutes with recovery to the 120's.
49. Patient 1 continued to complain of a headache and at 1749 staff documented Patient 1 as stating, "I feel like there is something wrong with me . . . I just don't feel myself . . . headache is not going away and I feel weird."
50. At 1810, Licensee was in to see Patient 1 who was complaining of upper abdominal pain, increasing headache pain, and decreased urine output. Licensee ordered staff to give Patient 1 Hydralazine 10mg SIVP, and Magnesium Sulfate 4gm Bolus followed by Magnesium Sulfate 2gm/hr and Betamethasone intramuscularly.
51. Licensee also decided to transfer Patient 1 to Wesley Medical Center for further care.
52. At 1958, Patient 1 was discharged to EMS care for transfer to Wesley Medical Center.
53. In Licensee's discharge summary for Patient 1 he documented Patient 1 was admitted with a diagnosis of "severe chronic hypertension with superimposed preeclampsia." In addition, he noted that he had given Patient 1 three (3) doses of labetalol, but failed to mention the three (3) previous doses given during the early morning hours on June 6, 2013.
54. On or about June 4, 2014, Licensee's clinical privileges at Labette Health were revoked
Confidential
55. In his treatment of Patient 1, Licensee failed to adhere to the applicable standard of care to a degree constituting ordinary and/or gross negligence, specifically including, but not limited to, each of the following acts or omissions:
 - a. Licensee delayed involving other specialists to assist in Patient 1's care and treatment;

- b. Licensee failed to acknowledge Patient 1's proteinuria and high blood pressure;
 - c. Licensee failed to diagnose and treat Patient 1's severe preeclampsia;
 - d. Licensee placed Patient 1 at an increased risk for placental abruption, seizures, renal damage, and stroke; and
 - e. Licensee delayed Patient 1's transfer to a facility that could care for Patient 1 and her premature infant.
56. "Traditionally the Board has imposed limitations on practice and other remedial means to address incompetence when the licensee appears cooperative. When a person does not appear to have the skills or the desire to remediate deficiencies, or when the public health and safety is in jeopardy, more severe disciplinary sanctions are necessary. . . ." *Guidelines for the Imposition of Disciplinary Actions*, August 2008, p.5.
57. As stated in the Board Sanctioning Guidelines, "The essence of professionalism is embodied in the human qualities of integrity, respect and compassion. Professionalism includes altruism, accountability, excellence, duty, service, honor, integrity and respect for others. Misconduct which is corrupt, dishonest or unethical is reprehensible. Such misconduct not only potentially causes patient harm, but such misconduct also undermines the public perception of the profession." *Id.* at p 7.

Conclusions of Law
and
Discussion

1. 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.

2. K.S.A. 65-2836 states:

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: . . .

3. K.S.A. 65-2836(b) states:

The licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency, except that the board may take appropriate disciplinary action or enter into a non-disciplinary resolution when a licensee has engaged in any conduct or professional practice on a single occasion that, if continued, would reasonably be expected to constitute an inability to practice the healing arts with reasonable skill and safety to patients or unprofessional conduct as defined in K.S.A. 65-2837, and amendments thereto.

4. K.S.A. 65-2836(k) states: “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.”

5. K.S.A. 65-2836(s) states:

Sanctions of disciplinary actions have been taken against the licensee by a peer review committee, health care facility, a governmental agency or department or a professional association or society for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

6. K.S.A. 65-2837(a)(1) states: “‘Professional incompetency’ means: One of more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board.”

7. K.S.A. 65-2837(b)(12) states: “‘Unprofessional conduct’ means: Conduct likely to deceive, defraud or harm the public.”

8. K.S.A. 65-2837(b)(25) states: “‘Unprofessional conduct’ means: Failure to keep written medical records which accurately describe the services rendered to the patient, including patient histories, pertinent findings, examination results and test results.”

9. K.A.R. 100-24-1 states:

(a) Each licensee of the board shall maintain an adequate record for each patient for whom the licensee performs a professional service.

(b) Each patient record shall meet these requirements:

(1) Be legible;

(2) contain only those terms and abbreviations that are or should be comprehensible to similar licensees;

(3) contain adequate identification of the patient;

(4) indicate the dates any professional service was provided;

- (5) contain pertinent and significant information concerning the patient's condition;
 - (6) reflect what examinations, vital signs, and tests were obtained, performed, or ordered and the findings and results of each;
 - (7) indicate the initial diagnosis and the patient's initial reason for seeking the licensee's services;
 - (8) indicate the medications prescribed, dispensed, or administered and the quantity and strength of each;
 - (9) reflect the treatment performed or recommended;
 - (10) document the patient's progress during the course of treatment provided by the licensee; and
 - (11) include all patient records received from other health care providers, if those records formed the basis for a treatment decision by the licensee.
- (c) Each entry shall be authenticated by the person making the entry unless the entire patient record is maintained in the licensee's own handwriting.
- (d) Each patient record shall include any writing intended to be a final record, but shall not require the maintenance of rough drafts, notes, other writings, or recordings once this information is converted to final form. The final form shall accurately reflect the care and services rendered to the patient.
- (e) For purposes of implementing the healing arts act and this regulation, an electronic patient record shall be deemed a written patient record if the electronic record is authenticated by the licensee.

10. K.S.A. 65-2846(a) states:

If the board's order is adverse to the licensee or applicant for reinstatement of license, costs incurred by the board in conducting any proceeding under the Kansas administrative procedure act may be assessed against the parties to the proceeding in such proportion as the board may determine upon consideration of all relevant circumstances including the nature of the proceedings and the level of participation by the parties. If the board is the unsuccessful party, the costs shall be paid from the healing arts fee fund.

11. K.S.A. 77-520(a) states:

If a party fails to attend or participate in a prehearing conference, hearing or other stage of an adjudicative proceeding, the presiding officer may serve upon all parties written notice of a proposed default order, including a statement of the grounds.

12. The Kansas State Board of Healing Arts has established Guidelines for the Imposition of Disciplinary Actions. It contains a grid for Category of Offense, Sanctioning Goals, Explanation of Case Types and instructions on how to apply the grid. *Guidelines for the Imposition of Disciplinary Actions*, August 2008.

13. “The whole purpose and tenor of the healing arts act is the protection of the public against unprofessional, improper, unauthorized and unqualified practice of the healing arts. The goal is to secure to the people the services of competent, trustworthy practitioners.” *Kansas State Bd. of Healing Arts v. Foote*, 200 Kan. 447, 453, 436 P.2d 828, 833 (1968).
14. The Kansas Healing Arts Act does not require a finding of actual harm to a patient in order for a licensee’s acts and/or conduct to be grounds for disciplinary action under the provisions of the act. *Fieser v. Kansas State Bd. of Healing Arts*, 281 Kan. 268, 130 P.3d 555 (2006).
15. “K.S.A. 2011 Supp. 65-2838(a) grants the Board jurisdiction to implement a disciplinary proceeding if the person was a licensee of the Board practicing under the Act at the time of the alleged misconduct. Jurisdiction does not depend on the status of a person’s license on the date a disciplinary proceeding is filed.” *Friedman v. Kansas State Bd. of Healing Arts*, 296 Kan. 636, 643, 294 P.3d 287, 293 (2013).
16. “When presented with a doctor who poses a possible threat to his patients, the Board must act in accordance with the interests of the public before the interests of the doctor. Therefore, the Board’s responsibility is not to weigh the benefit and harm of this agency action as it pertains to [Licensee] and his personal life, but to the benefit and harm to the public and the public’s perception of the Board as a regulatory agency. If the Board is to perform its regulatory function, the public must perceive the Board as acting in the public’s best interest, rather than catering its decision to the benefit of the doctors it is tasked with regulating.” *Zoeller v. State Bd. Of Healing Arts*, Case No. 12-C-50, slip opinion at p. 12 (Shawnee County District Court July 2, 2012).
17. Under the Kansas Administrative Procedure Act, an individual can be held in default for failing to participate in the adjudicatory process. K.S.A. 77-520.
18. The Administrative Law Judge/Presiding Officer finds the Board has jurisdiction over Licensee as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
19. Additionally, the Administrative Law Judge/Presiding Officer finds that Licensee has failed to participate in the adjudicatory process. Specifically, Licensee has failed to participate in the discovery stage of this proceeding in that he failed to appear for a deposition after a duly authorized subpoena was issued.
20. The Administrative Law Judge/Presiding Officer further finds that Licensee has failed to provide a response to Petitioner’s First Interrogatories to Respondent and has failed to provide his expert witness disclosure pursuant to the Prehearing Order and Notice of Hearing filed on September 17, 2015.

21. Licensee has failed to provide any reason in which his deposition could not and/or should not occur. Also, Licensee has failed to provide any reason for failing to respond to Petitioner's First Interrogatories to Respondent and provide his expert witness disclosure.
22. The Administrative Law Judge/Presiding Officer found that Licensee can be held in default for failing to participate in the adjudicatory process pursuant to K.S.A. 77-520.
23. As a result of Licensee's default, the Administrative Law Judge/Presiding Officer finds that Petitioner's facts and violations as alleged in the Petition are deemed admitted and adopted in full.
24. The Presiding Officer/Administrative Law Judge finds that Licensee's violations of the Healing Arts Act falls within the category of offense 1A. Furthermore, the presence of aggravating factors as compared to a few mitigating factors advances the plotting on the grid, one column to the right. Therefore, pursuant to the Board's Guidelines for the Imposition of Disciplinary Actions, revocation of Licensee's license should be imposed against Licensee.
25. Finally, the Presiding Officer/Administrative Law Judge finds that the costs of this proceeding should be assessed against Licensee in an amount to be determined after issuance of an Initial Order and after Petitioner files a Statement of Costs.

Order

Pursuant to the Board's disciplinary guidelines, Licensee is hereby **REVOKED** from the practice of medicine and surgery.

Pursuant to K.S.A. 65-2846, the **COSTS** of this proceeding are assessed against Licensee. Petitioner is directed to file a Statement of Costs.

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 REVOKING LICENSURE** was served this 16th day of March 2016 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Frederick T. Okie, MD
Confidential
Woodstock, Maryland 21163-**Confidential**

And a copy was hand-delivered to:
Susan Gering, Associate Litigation Counsel
Joseph S. Behzadi, Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

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

Kelli Stevens, 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.



Cathy Brown, Executive Assistant