

FILED

NOV 13 2019

BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of	)	
VIKRAM SINGH PANWAR, M.D.	)	
	)	KSBHA Docket No. 19-HA00113
	)	
Application for License to Practice	)	
Medicine and Surgery	)	

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**FINAL ORDER DENYING LICENSURE ON RECONSIDERATION**

On October 11, 2019 this matter came before the Kansas State Board of Healing Arts (“Board”) on a Petition for Reconsideration of Denial or Licensure for Vikram Singh Panwar, M.D.’s (“Applicant”) application to practice medicine and surgery in Kansas. Applicant appeared in person, and through counsel, Kelli Stevens, of Forbes Law Group. Matthew Gaus, Associate Litigation Counsel, appeared to present the position of the Disciplinary Panel of the Board. Dr. Balderston, Dr. Hutchins, and Mr. Kelly were recused.

Under the authority granted to the Board by the Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*, and in accordance with the provisions of the Kansas Administrative Procedure Act, (“KAPA”), K.S.A. 77-501 *et seq.*, the Board enters this Final Order. After reviewing the agency record, hearing the arguments of the parties, and being duly advised in the premises, the Board makes the following findings, conclusions, and orders.

**PROCEDURAL HISTORY**

On or about November 10, 2018, Applicant submitted an application to practice medicine and surgery in Kansas. That application was deemed complete and filed with the Board on June 25, 2019. A Response was filed on behalf of the disciplinary panel of the Board on July 10, 2019.

A Notice of Hearing was filed and served on July 12, 2019, and July 29, 2019, setting a Conference Hearing regarding Applicant’s application for licensure. No objection to the Notice of Hearing was filed.

The Conference Hearing in this matter was held before the Board on August 9, 2019.<sup>1</sup> After oral argument from both parties, and testimony from the Applicant, the Board verbally issued its order **DENYING** licensure, with a written Final Order to follow in 30 days.

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<sup>1</sup> In advance of the oral arguments, the Board was provided the entire agency record to facilitate a comprehensive understanding of the underlying matter, including all exhibits, briefs, and motions filed by the parties in advance of oral arguments. The entire agency record was considered by the Board in rendering its decision.

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**Final Order Denying Licensure on Reconsideration**  
*In the Matter of Vikram Singh Panwar, M.D.,*  
KSBHA Docket No. 19-HA00113

On August 14, 2019, Applicant, through counsel, filed a Motion to Stay Denial of Licensure Pending Judicial Review. The Board, having considered during its deliberations at the August 9, 2019 hearing whether a stay would be appropriate in this case, and being fully advised of the agency record, denied applicant's Motion to Stay Denial of Licensure Pending Judicial Review. The Board found that denial of the motion was justified to ensure protection of the public from a threat to public health and welfare of substance, based on the findings and conclusions described below.

On August 21, 2019, prior to issuance of the written Final Order of the Board, Applicant, through counsel, Petitioned for Reconsideration of License Denial, and included a memorandum of support. The Petition for Reconsideration was based on information that subsequent to the original Conference Hearing, Applicant was presented with an opportunity to practice at Larned State Hospital in Kansas and remain in the country under a different type of waiver. The Petition for reconsideration was taken under advisement for consideration at a Conference Hearing scheduled for October 11, 2019.

The Final Order Denying Licensure was timely filed, September 9, 2019. Subsequently, Applicant, through counsel, filed an Amended Petition for Reconsideration of License Denial and Incorporated Memorandum in Support.

The Conference Hearing on the Petition for Reconsideration of Denial of Licensure was held before the Board on October 11, 2019. After oral argument from both parties, and testimony from the Applicant, the Board verbally issued its order **DENYING** the application for licensure upon reconsideration pursuant to Petition for Reconsideration on Denial of Licensure, with a written Final Order to follow in 30 days.

#### **FINDINGS OF FACT**

1. On or about November 10, 2018, Applicant applied for a license to practice medicine and surgery in Kansas.
2. Initially, Applicant answered "no" to all the addendum questions.
3. Applicant then submitted updated responses to the addendum questions and provided explanations.
4. In his updated application response, Applicant stated the following:
  - a. In August 2016, he was the psychiatric resident on-call when a coworker/friend he had been flirtatious with was brought to the emergency room, and he admitted her. Prior to admission, he claims he was unaware she had psychiatric issues. After her hospitalization, they exchanged text messages, and met at a coffee shop. His residency director confronted him about his contact with her.

- b. In November 2016, a medical student had reported she felt Applicant was too friendly with her and made her feel uncomfortable.
  - c. In August 2017, his residency program received a complaint about concerns of Applicant meeting with a patient outside of appointments, and undocumented phone calls with her. He admits he met with her and had phone communication with her. His residency program had him receive extra clinical supervision.
  - d. CONFIDENTIAL
  - e. Applicant included documentation with his updated application response that included KU Medical center's notice of the proposed termination of his residency, CONFIDENTIAL his letter agreement for a 28-day suspension from his residency, CONFIDENTIAL
5. On December 3, 2018, KU Medical Center sent Applicant a letter providing notice of proposed termination of his residency.
  6. This letter outlined the instances Applicant described in his updated responses, but in more detail. Of additional note:
    - a. After the August 2017 complaint, he was placed on remediation (for professional issues and medical knowledge/patient care), which he successfully completed.
    - b. On November 20, 2018, there was another complaint from a patient he had admitted to the inpatient unit in 2016, alleging clear boundary violations. Applicant initially denied it but was confronted with text messages of the two. The patient claimed "pizza" was their code word for sex, which he denied, but stated it was the code word for "flirting." The texts were banter about wanting pizza. Applicant also asked her to meet him. He was placed on administrative leave with pay, pending review. The decision was made to initiate corrective action and notify him the residency program was proposing termination.
  7. On December 19, 2018, Applicant received a letter from KU's Office of the General Counsel. It stated in lieu of termination, Applicant would be put on a paid 28-day suspension and allowed to return to work subject to: CONFIDENTIAL

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14. On April 1, 2019, the Board received a patient complaint alleging Applicant exhibited unprofessional conduct and crossed sexual boundaries during appointments with him for psychiatric care.

15. Specifically, she alleged Applicant asked an excessive number of questions about her sex life, gave her his personal number and propositioned her to meet for a sexual encounter, hugging and squeezing her buttocks, exposed his penis to her, and raising her Adderall dosage because he was afraid she would tell someone about his misconduct.

16. The patient complainant also filed a police report on February 14, 2019.

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18. Board Investigators contacted each of the Wyandot staff members involved, and all denied telling the Program Director this.

## CONCLUSIONS

### I. **Applicable Statute**

Under K.S.A. 65-2836, an application for a license may be denied upon the existence of any of the following grounds:

- (b) [Applicant] committed an act of unprofessional or dishonorable conduct.

### II. **Case Law**

The case law most relevant to this matter include the following.

“Where substantial evidence is presented that supports a finding of a violation of the [Kansas Healing Arts Act], Board members are entitled and expected to rely on their own expertise and experience in making these decisions.” *Hart v. Bd. of Healing Arts of State*, 27 Kan. App. 2d 213 (2000).

“[T]he [Act] is entitled to broad and liberal construction.” *Patel v. Kansas State Board of Healing Arts*, 22 KanApp.2d 712, 716 (1996). The Kansas Supreme Court held, in reviewing the Kansas Healing Arts Act, that consideration must be given to the entire act and that the legislatures “enumerating certain acts and classifying them as unprofessional conduct” did not serve to “exclude all other acts or conduct in the practice of the healing arts” that, by “common understanding” could be considered unprofessional conduct. *Kansas State Bd. of Healing Arts v. Foote*, 200 Kan. 447, 453, 436 P.2d 828, 833 (1968). The Court went on to identify the impracticality of listing “each and every specific act or course of conduct which might constitute such unprofessional conduct of a disqualifying nature.” *Id.* Finally, the Court concluded that “The determination whether by common judgment certain conduct is disqualifying is left to the sound discretion of the board.” *Id.*, at 454.

The Kansas Healing Arts Act does not require a finding of actual harm to a patient 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).

### III. **Conclusions**

- A. Applicant has violated K.S.A. 65-2836(b), in that he has committed an act of unprofessional or dishonorable conduct.

The Board finds Applicant has violated K.S.A. 65-2836(b), in that he has committed acts of unprofessional or dishonorable conduct. Based on the agency record, the Board finds that

Applicant committed multiple instances of boundary violations with patients during his residency, some of which were sexual in nature. These include, but are not limited to:

- He admitted a co/worker/friend he had previously been flirtatious with for psychiatric issues, and subsequently exchanged texts and met at a coffee shop;
- Applicant met and had phone communication with another patient outside of appointments; and
- Applicant also sent text messages to a patient he had admitted to the inpatient unit in 2016. Applicant initially denied it but was confronted with text messages of the two. The texts were banter about wanting pizza. Applicant also asked her to meet him. The patient claimed “pizza” was their code word for sex. Applicant denied that “pizza” was a code word for sex but stated it was the code word for “flirting.” The Board’s finds the Applicant’s account and characterization of this conversation to lack credibility. Based on the agency record and the Board’s assessment of credibility, the Board concludes that this conversation referred to potential and/or actual sexual interaction with the patient.

The Board is the state agency tasked with the duty to license, regulate, and discipline practitioners of the healing arts in Kansas. K.S.A. 65-2801, et seq. The purpose of the Board is to protect Kansas patients against unprofessional, improper, unauthorized and unqualified practice of the healing arts. K.S.A. 65-2801. See *Kansas State Bd. Of Healing Arts v. Foote*, 200 Kan. 447, 453 (1968). The Board is composed of 15 members, 12 of whom are health care practitioners. As such, “Board members are entitled and expected to rely on their own expertise and experience” in exercising the judgment necessary to protect the public pursuant to the Healing Arts Act. See *Hart v. Bd. of Healing Arts of State*, 27 Kan. App. 2d 213, 218 (2000).

It is clear to the Board that Applicant committed acts of unprofessional or dishonorable conduct in the form of boundary violations with patients during his residency, some of which were sexual in nature. Applicant’s clinical practice specialty is psychiatry. The Board’s patient safety concern is enhanced by the nature of the conduct and the vulnerability of the patient population to which Licensee would be exposed if he were to be granted a license to practice in Kansas. Under all the circumstances of this case, the Board concludes that the application should be denied.

### **ORDER**

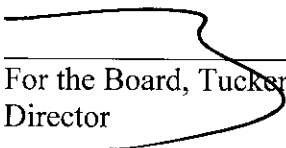
**IT IS THEREFORE ORDERED**, Applicant’s application to practice medicine and surgery in Kansas, is **DENIED**.

**IT IS SO ORDERED** this 13<sup>th</sup> day of November 2019.

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**KANSAS STATE BOARD OF HEALING ARTS**



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For the Board, Tucker L. Poling, Interim Executive  
Director

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## NOTICE OF APPEAL RIGHTS

**PLEASE TAKE NOTICE** that this is a Final Order. A Final Order is effective upon service, and service of a Final Order is complete upon mailing. Under K.S.A. 77-529, parties may petition the Board for Reconsideration of a Final Order within fifteen (15) days following service of the final order. Additionally, 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 State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.



**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing **FINAL ORDER DENYING LICENSURE ON RECONSIDERATION** was served, by depositing the same in the United States mail, postage prepaid, and emailed on this 13<sup>th</sup> day of November 2019, addressed to:

Vikram Singh Panwar, M.D.  
**CONFIDENTIAL**

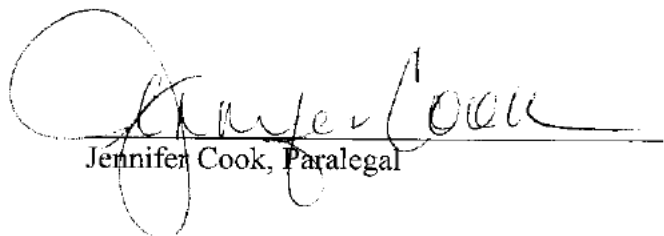
*Applicant*

Kelli J. Stevens  
Forbes Law Group  
6900 College Blvd., Suite 840  
Overland Park, KS 66160  
kstevens@forbeslawgroup.com  
*Attorney for Applicant*

And hand-delivered to:

Matthew Gaus, Associate Litigation 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