

EFFECTIVE AS A FINAL ORDER

DATE: 6/30/2021

FILED

JUN 08 2021 *AD*

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

Kansas State Board of Healing Arts

In the Matter of

Docket No. 21-HA00069

**John J. Pershing M.D.
Kansas License No. 04-33408**

AMENDED SUMMARY ORDER

NOW ON THIS 30th day of June 2021, this matter comes before Tucker L. Poling, 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 Amended 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. John J. Pershing, M.D. ("Licensee") was first issued an Active License No. 04-33408 to practice medicine and surgery on or about October 11, 2008. Licensee last renewed his license as Active on or about May 27, 2020.
2. Licensee's last mailing address known to the Board is: **CONFIDENTIAL**
CONFIDENTIAL. Licensee's last email address known to the Board is **CONFIDENTIAL**
3. 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.
4. The factual basis for this Order is as follows:

**Amended Summary Order
John J. Pershing, M.D.**

a. On or about May 27, 2020, Licensee renewed his license online as Active. Licensee's renewal application stated that "As a condition of providing professional services in Kansas, whether or not physically located in Kansas, each person with an active license must pay the annual surcharge to the Kansas Health Care Stabilization Fund (KHCSF)." (emphasis in original). Licensee was asked "Have you paid the annual surcharge to the KHCSF?" to which he answered "Yes." (Bd. Ex. 1).

b. After Licensee renewed his license, a search of the KHCSF showed Licensee was not in compliance with KHCSF statutory requirements, and had not been in compliance during at least the following periods:

- i. April 8, 2018, through June 30, 2019; and
- ii. January 2, 2020, through at least April 5, 2021. (Bd. Ex. 2).

c. After the issuance of an initial Summary Order, Licensee contacted the KHCSF and came into compliance. The Board received evidence of proper malpractice policy coverage and KHCSF surcharge payment requirements on or around April 28, 2021. (Bd. Ex. 3).

d. Despite holding an Active license, Licensee remained out of compliance with KHCSF statutory requirements during the above mentioned timeframes, which is in excess of two years out of compliance.

Applicable Law

5. 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.

6. 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 pharmacists 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). . .

7. K.S.A. 40-3404 states:

(a) Except for any health care provider whose participation in the fund has been terminated pursuant to subsection (i) of K.S.A. 40-3403, and amendments thereto, the board of governors shall levy an annual premium

surcharge on each health care provider who has obtained basic coverage and upon each self-insurer for each year.

(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.

8. 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

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

10. 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.

11. 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 hereby **PUBLICLY CENSURED**, and that Licensee is assessed a **CIVIL FINE** in the amount of one thousand dollars (**\$1,000.00**) for violations of the Kansas Healing Arts Act, due within thirty (30) days after this Order becomes a Final Order. Such fine shall be paid to the "Kansas State Board of Healing Arts," in full. 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 8th day of June 2021.

**KANSAS STATE BOARD
OF HEALING ARTS •**



Tucker L. Poling
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, 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 I served a true and correct copy of the above and foregoing **FINAL ORDER** by depositing the same in the United States Mail, postage prepaid, on this 30th day of June 2021, addressed and emailed to:

John J. Pershing, M.D.
CONFIDENTIAL

Licensee


And a copy was hand-delivered to:

Matthew Gaus, 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.



Jennifer Cook, Paralegal

KSBOHA Online Renewal Application

Date Created:

Wednesday, May 27, 2020

Name:

John J Pershing

License Information

License Number:

04-33408

License Type:

Medical Doctor (MD)

Status Before Renewal:

Active

Status After Renewal:

Active

Status Change Date:

Date of Birth:

CONFID

Gender:

M

Citizenship Status:

U.S. Citizen

Ethnicity:

White

Address Information:

Use Primary Business Address for mailing:

Y

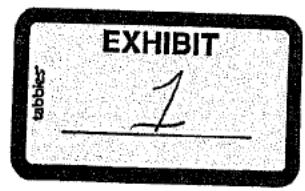
Home Address:	CONFIDENTIAL
Line 1:	
Line 2:	
City, State, Zip	
Country:*	
Phone:	
Email:*	

Insurance Information:

Continental Casualty Company	Add
Policy Number:	CONFIDENTIAL 8 Malpractice Insurance
Insurance Issue Date:	1/1/2020
Insurance Exp Date:	12/31/2020

Exempt - Professional Activities

Professional activity	Description



Applicant Questions

Retirement

Planning to retire within 5 years?
N

Dispensing

Dispense Pharmaceuticals
N

Malpractice Screening Panel

I am willing to serve on a Screening Panel
N

No Practice Address

I certify that I do NOT practice in Kansas:
Y

Expert Witness

I am willing to serve as an expert for the Board
N

Supervise Non-Licensed Rad Techs

I supervise non-licensed rad techs	I certify that they are trained on the equipment	I certify that they have/will obtain continuing ed
N	N	N

Board Certifications

Certifying Board	Other Board
ABEM-American Board of Emergency Medicine	

Kansas Hospital Privileges

Hospital/Surgery Center	Other Hospital
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DEA Number

DEA Number
AP3290486

Identify all other authorities that have ever licensed you to practice.

Other

Licenses/Permits/Certifications

State or Jurisdiction	Date Issued
AL	
AK	
AZ	
AR	
CA	
CO	
CT	
DE	
FL	
GA	
HI	
ID	
IL	
IN	
IA	
KS	
KY	
LA	
ME	
MD	

Other
Licenses/Permits/Certifications

State or Jurisdiction	Date Issued
MA	
MI	
MN	
MS	
MO	
MT	
NE	
NV	
NH	
NJ	
NM	
NY	
NC	
ND	
OH	
OK	
OR	
PA	
RI	
SC	
SD	
TN	
TX	
UT	
VT	
VA	
WA	
DC	
WV	
WI	
WY	

National Provider Identifier

NPI Number	No current NPI
1871597104	

Language

English	Spanish	ASL (American Sign Language)	Other Languages
Y	N	N	

Disaster Relief

Please do not include me in the registry	Within My County	Within 75 Miles	Anywhere in Kansas	Outside the State of Kansas
Y	N	N	N	N

CE Year
Education Year
2020

Question Responses

<p>Continuing Education Review the instructions below before making a selection.</p> <p>If you are changing the status of your license from Inactive or Exempt to Active or Federal Active, select "Yes". You may be contacted to provide proof of CE hours.</p> <p>If the Education Year listed in the chart above is a future year, you do not have continuing education hours due at this time. Select "NA"</p> <p>If the Education Year listed in the chart above is the current year or a prior year, you have continuing education hours due and must certify the hours you have obtained.</p> <ul style="list-style-type: none"> If you obtained (or will obtain within 90 days following the expiration of the Kansas state of emergency related to COVID-19) at least 50 continuing education hours with a minimum of 20 category 1 and a maximum of 30 category 2 from 1-1-2019 to 6-30-2020, select "50". If you obtained (or will obtain within 90 days following the expiration of the Kansas state of emergency related to COVID-19) at least 100 continuing education hours with a minimum of 40 category 1 and a maximum of 60 category 2 from 1-1-2018 to 6-30-2020, select "100". If you obtained (or will obtain within 90 days following the expiration of the Kansas state of emergency related to COVID-19) at least 150 continuing education hours with a minimum of 60 category 1 and a maximum of 90 category 2 from 1-1-2017 to 6-30-2020, select "150". 	50
<p>Continuing Education Audit Question</p> <p>The Board will verify compliance with continuing education requirements in an undetermined percentage of renewal applications. This verification will involve an audit of records maintained by the licensee. You must maintain your continuing education records for a three year period in a manner that allows them to be readily produced. Do you understand the audit process?</p>	Y
<p>Gratuitous Professional Services</p> <p>Have you entered into an agreement with the Kansas Secretary of Health and Environment to gratuitously provide professional services to medically indigent persons or to conduct a children's immunization program administered by the Kansas Secretary of Health and Environment?</p>	N
<p>Have you gratuitously provided any professional services at a local health department or indigent healthcare clinic to a medically indigent person or a person receiving medical assistance from the programs operated by the department of health and environment?</p>	N
<p>If you answered in the affirmative to either of the preceding questions, how many hours of gratuitous services to medically indigent persons have you provided within the preceding licensure period? If you answered "No" above, enter "NA".</p>	NA
<p>How many hours of continuing education credit (by the performance of two hours of gratuitous professional services to medically indigent persons per hour claimed), up to a maximum of twenty (20) hours of continuing education credit, are you claiming for this licensure period? If you answered "No" above, enter "NA".</p>	NA
<p>KHCSF Compliance</p> <p>As a condition of providing professional services in Kansas, whether or not physically located in Kansas, each person with an active license must pay the annual surcharge to the <u>Kansas Health Care Stabilization Fund (KHCSF)</u>.</p> <p>Have you paid the annual surcharge to the KHCSF?</p>	Y
<p>KTRACS</p> <p>Are you enrolled in the Prescription Drug Monitoring Program (K-TRACS)? (see www.kansas.gov/pharmacy)</p>	N
<p>I know what K-TRACS is.</p>	Y
<p>I am unsure of how to enroll in K-TRACS.</p>	N
<p>K-TRACS is clinically useful for me.</p>	N
<p>K-TRACS is cumbersome to use.</p>	N
<p>I prescribe/dispense controlled substances.</p>	N
<p>Office Based Surgery</p> <p>In Kansas, have you since your last renewal, performed procedures in your office that require sedation, including IV sedation of any kind: inhaled agents; parenteral, regional, spinal, epidural or general anesthesia. ("Office" as used here does not include a hospital based practice. Also excluded are minor procedures that can be performed safely and comfortably with any one or combination of the following: a low dose oral sedative that does not affect the patient's level of consciousness; local; topical; or no anesthesia.)</p>	N
<p>Office Based Surgery Practice Location: If you answered "Yes" to the above question, enter the location here or if you answered "No" above enter "NA".</p>	NA
<p>Accrediting Entity Name: If you answered "Yes" to the above question, enter the entity name here. If your office is not accredited or if you answered "No" above,</p>	

<p>enter "NA". Appropriate names are as follows:</p> <ul style="list-style-type: none"> • Accreditation Association for Ambulatory Health Care, Inc. • American Association for Accreditation of Ambulatory Surgery Facilities, Inc. • Institute for Medical Quality • Joint Commission on Accreditation of Healthcare Organizations • NA 	NA
<p>Certification/Accreditation Number: If you answered "Yes" to the above question, enter the Certification/Accreditation number here. If your office is not accredited or if you answered "No" above, enter "NA".</p>	NA
<p>Attestation Questions</p> <p>A. In the past 12 months have you been and/or continued to be a defendant or has any judgment, award or settlement been paid on your behalf as a result of a professional liability claim/lawsuit?</p>	N
<p>B. In the past 12 months have you been arrested, charged with or convicted of any felony, misdemeanor or the military equivalent? This includes a diversion or plea to a felony, misdemeanor or the military equivalent.</p>	N
<p>C. In the past 12 months has any disciplinary action been initiated or taken against you by any state or government agency, or have you been denied a license, had any adverse action taken on your license, surrendered or consented to limitation of your license to practice in any state or country?</p>	N
<p>D. In the past 12 months have any privileges related to your profession as a health care provider been suspended, restricted, limited or voluntarily surrendered or has any peer review or professional association initiated or taken any action against you?</p>	CONFIDENTIAL
<p>E. Do you currently have any physical or mental health condition (including alcohol or substance use) that impairs your judgment or would otherwise adversely affect your ability to practice your profession in a competent, ethical, and professional manner?</p>	
<p>F. In the past 12 months have you been the subject of any investigation, including in Kansas, regarding allegations, complaints, or charges by any state licensing agency or other government agency?</p>	N
<p>Voluntary Supplemental Public Statement</p> <p>Pursuant to K.S.A. 65-28, 131, on and after July 1, 2010, the board shall make available on a searchable website which shall be accessible by the public, the following information regarding licensees:</p> <p>(1) The licensee's full name, business address, telephone number, license number, type, status and expiration date;</p> <p>(2) the licensee's practice specialty, if any, and board certifications, if any;</p> <p>(3) any public disciplinary action taken against the licensee by the board or by the licensing agency of any state or other country in which the licensee is currently licensed or has been licensed in the past;</p> <p>(4) any involuntary limitation, denial, revocation or suspension of the licensee's staff membership or clinical privileges at any hospital or other health care facility, and the name of the hospital or facility, the date the action was taken, a description of the action, including any terms and conditions of the action and whether the licensee has fulfilled the conditions of the action;</p> <p>(5) any involuntary surrender of the licensee's drug enforcement administration registration; and;</p> <p>(6) any final criminal conviction or plea arrangement resulting from the commission or alleged commission of a felony in any state or country.</p> <p>At the time of licensure or renewal, a licensee may add a statement to such licensee's profile as it appears on the website created herein. Such statement may provide further explanation of any disciplinary information contained in your profile.</p> <p>This statement must be received by the Board within 30 days after your license cancellation date.</p>	N
<p>Do you wish to add a statement to further explain any disciplinary information in your public profile?</p>	
<p>Renewer</p>	John Pershing
<p>Please Enter the Full Name of person completing this renewal.</p>	

Attestation

Pursuant to K.S.A. 65-28,131, information provided herein may be deemed public and posted on our Website. Failure to furnish the Board any information legally requested by the Board may be deemed unprofessional conduct and may be the basis for disciplinary action.

Pursuant to K.S.A. 65-28,126, Licensees are required to notify the Kansas State Board of Healing Arts in writing within 30 days of any changes in the licensee's mailing and practice addresses. I certify, under penalty of perjury, that by clicking the "Pay Fees" button I am the person named in this request or have been authorized by that person, and the information I have provided is true, correct and complete to the best of my knowledge. I understand that Kansas Statutes allow the State Board of Healing Arts to revoke, suspend or limit a license, or censure the licensee, or impose a fine in an amount up to \$5,000 for any act of fraud or misrepresentation in applying for renewal of a license.

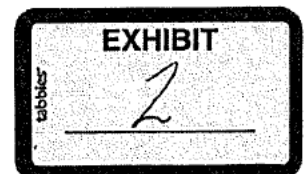
HCP Name **ID No.** **Agency** **License** **Res.** **Status** **Retro Date** **Address**
 PERSHING MD 109124 110 04-33408 N A 04/07/2016 **CONFIDENTIAL**
 JOHN

Company	Policy	Rate	Level	Fund Type	Effective	Expiration	Surcharge	Document reference numbers
CONTINENTAL CASUALTY CO	CONFIDENTIAL	2302	1	C	07/01/2019	01/01/2020	\$ 100.00	
EVANSTON INS CO	CONFIDEN TAI	2201	1	C	04/07/2017	04/07/2018	\$ 100.00	
EVANSTON INS CO	CONFIDEN TAI	2101	1	C	04/07/2016	04/07/2017	\$ 100.00	

[Search Again](#) | [Return to HCSF Website](#)

Feedback

Our commitment to excellence involves receiving feedback from you. We would appreciate your feedback in the form of a brief survey describing your overall experience with this service.





Health Care Stabilization Fund

300 S.W. 8th Avenue, Second Floor
Topeka, Kansas 66603-3912

hcsf@ks.gov
785-291-3777

CERTIFICATION OF COMPLIANCE

PROVIDER INFORMATION

Name Pershing, John J
Title MD KS License 04-33408

HCSF Level \$100,000 / \$300,000

POLICY INFORMATION

Insurance Co. Continental Casualty Co
Policy **CONFIDENTIAL**
Type Occurrence basic coverage

Effective Date 12/31/2020
Expiration 12/31/2021

Confirmed By Mary Ellen Kilgore
Title Compliance Auditor II
E-Mail MaryEllen.Kilgore@ks.gov
Dated 4/29/2021

