

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

FILED *AB*

MAR 15 2012

KS State Board of Healing Arts

**In the Matter of
JOHN GORDON PICKERING, D.C.**

Kansas License No. 01-04495

KSBHA Docket No. 12-HA00046

FINAL ORDER REVOKING LICENSURE

NOW on this 24th day of February, 2012, comes before the Kansas State Board of Healing Arts ("Board"), the First Amended Petition seeking revocation of the chiropractic license of John Gordon Pickering, D.C. ("Licensee") for violations of the Kansas Healing Arts Act. Licensee appears in person and by and through his counsel, N. Trey Pettlon, III. Janith A. Lewis-Bryant, Associate Litigation Counsel, appears on behalf of the Petitioner.

Pursuant to the authority granted to the Board by K.S.A. 65-2801 *et seq.* and in accordance with the provisions of the Kansas Administrative Procedure Act K.S.A. 77-501 *et seq.*, the Board hereby enters this Final Order in the above-captioned matter. After reviewing the file, hearing the statements and arguments of the parties, hearing the testimony of Licensee, and being otherwise duly advised in the premises, the Board makes the following findings, conclusions and order:

1. Licensee is licensed to engage in the practice of chiropractic in the State of Kansas, License No. 01-04495, and has been so licensed since approximately August 16, 1997.
2. On or about November 17, 2011, Licensee plead guilty and was convicted of possession of methamphetamine and cocaine, which are level 4 drug felonies, and possession of marijuana, class A non-personal misdemeanor.

3. Petitioner alleges that Licensee violated K.S.A 65-2836(c) of the Kansas Healing Arts Act, in that Licensee had been convicted of a felony, whether or not related to the practice of the healing arts. Petitioner also alleges that Licensee violated K.S.A. 65-2836(a) by committing misrepresentation in applying for renewal of his license because Licensee answered “no” to two (2) questions in his 2011 renewal application which asked if Licensee knew of any investigations by a licensing agency or if any disciplinary action had been initiated against him by a state licensing agency in the past 12 months. Petitioner alleges that at the time of answering these renewal questions, Licensee knew that he was the subject of an investigation by the Board and that this disciplinary action had been initiated against him.

4. Licensee admits his felony and misdemeanor convictions. Licensee further admits that he answered “no” to the two (2) questions in his 2011 renewal application, but denies any intent to commit misrepresentation because he assumed the Board did not intend to for those questions to include its own investigations and disciplinary actions.

5. Pursuant to K.S.A 65-2836(c), the Board did not find with a 2/3 majority vote that the licensee posed no threat to the public and has been sufficiently rehabilitated to warrant the public trust based on clear and convincing evidence.

6. Licensee’s conviction of a felony and class A misdemeanor constitutes grounds for revocation of licensure pursuant to K.S.A. 65-2836(c). That statute requires the Board to revoke Licensee’s licensure due to his felony conviction “unless a 2/3 majority of the board members present and voting determine by clear and convincing evidence that such licensee will not pose a threat to the public in in such person’s capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust.”

7. It is Licensee's burden to prove by clear and convincing evidence that he is not a threat to the public and that he has been sufficiently rehabilitated.

8. Licensee denies that he poses a threat to the public as a licensee. In support thereof, Licensee asserts that there have been no complaints from staff or patients; confidential
confidential and that he would offer to have his future practice supervised by another physician for a proscribed period of time.

9. As evidence of rehabilitation, Licensee points to confidential
confidential ; the fact that he is subject to additional scrutiny while under criminal probation; Licensee's acceptance of responsibility for his crimes; confidential and Licensee's commitment to performing voluntary community service.

10. The Board finds that Licensee is in the beginning stages of rehabilitation. While under the heightened scrutiny of criminal probation and the possible consequences that violation may bring, the degree of Licensee's actual rehabilitation cannot be ascertained.

11. The Board does not find by a 2/3 majority that Licensee has met his burden of proof to overcome the mandated revocation of his license.

12. The Board concludes that the evidence of rehabilitation presented by Licensee is sufficient to merit the Board's consideration of an application for reinstatement earlier than the three (3) year timeframe set forth in K.S.A. 65-2844.


13. The Board concludes that Licensee should be permitted to apply for reinstatement of his revoked license in eighteen (18) months from the filing date of this Order. All other statutory requirements for reinstatement shall apply to such application. Additionally, the Board

shall consider the merits of such application for reinstatement under the analysis set forth in *Vakas v. Kansas Bd. of Healing Arts*, 248 Kan. 589, 808 P.2d 1355 (1991).

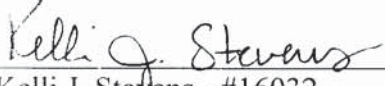
IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS: that Licensee's license to practice chiropractic in the State of Kansas is hereby REVOKED.

IT IS FURTHER ORDERED that Licensee may apply for reinstatement of his revoked license in eighteen (18) months from the filing date of this Order. All other statutory requirements for reinstatement shall apply to such application. Additionally, the Board shall consider the merits of such application for reinstatement under the analysis set forth in *Vakas v. Kansas Bd. of Healing Arts*, 248 Kan. 589, 808 P.2d 1355 (1991).

IT IS SO ORDERED THIS 15 DAY OF MARCH, 2012, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.


Kathleen Selzler Lippert
Executive Director
Kansas State Board of Healing Arts

Prepared by:


Kelli J. Stevens - #16032
General Counsel

**NOTICE REGARDING UNLAWFUL CORPORATE
PRACTICE OF CHIROPRACTIC**

PLEASE TAKE NOTICE that your license to practice chiropractic in the State of Kansas has been revoked. As such, you may no longer lawfully hold an ownership interest in any professional business entity organized to provide chiropractic services in the State of Kansas.

NOTICE OF 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. Pursuant to K.S.A. 77-529, Licensee 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, the Board's Executive Director, at 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing **FINAL ORDER REVOKING LICENSURE** was served this 15th day of March, 2012 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

John Gordon Pickering, D.C.
535 N. Mur-Len Road
Olathe, Kansas 66062

N. Trey Pettlon, III
111 S. Kansas Avenue
Olathe, Kansas 66061


And a copy was hand-delivered to:

Janith A. Lewis-Bryant, 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

And the original was filed with the office of:

Kathleen Selzler Lippert, Executive Director
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612



Cathy Brown
Executive Assistant